"MISCHIEVOUS POTENTIALITIES": A CASE STUDY OF COURTROOM CAMERA GUIDELINES, EIGHTH JUDICIAL CIRCUIT, FLORIDA, 1989

By

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A DISSERTATION PRESENTED TO THE GRADUATE SCHOOL
OF THE UNIVERSITY OF FLORIDA IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

UNIVERSITY OF FLORIDA

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ACKNOWLEDGMENTS

First, my appreciation is extended to all those who aided me in the field work (most of whom are named in Chapter 4 as those whose work is the subject of the study): members of the media, particularly representatives of WCJB-TV (ABC), WRUF-AM/FM (CBS), WUFT-FM (NPR), WUFT-TV (PBS), and the Gainesville Sun; and the Honorable Chester Chance, Chief Judge of Florida's Eighth Judicial Circuit, as well as the other judges, attorneys, court personnel and anonymous jurors who were involved with the case study.

I wish to express special gratitude to the following at the University of Florida: professors who served as supervisory committee members (gentlemen and scholars) Drs. David Ostroff (Chairman), Bill F. Chamberlin, Kermit Hall, Albert Matheny, and John Wright; Dean Ralph Lowenstein (College of Journalism and Communications), Assistant Dean Kurt Kent (Graduate Studies), and Dean Jeff Lewis (College of Law); librarians Rick Donnelly, Dolores Jenkins, and Rosalie Sanderson; and copy editors Morgan Piazza and Barbara Smerage.

I will remember with fondness the late Joseph L. Brechner, who was the primary patron of my studies and a warm, sincere supporter. My thanks also go to the William C.

Steel Media Access Fund (and particularly Steel, Hector Davis attorneys Dean Sandy D'Alemberte, Norm Davis, and Tom Julin).

Finally, my thanks are offered to the advisors who rendered various types of personal assistance (a debt of gratitude I can never repay): Dee, Beans, Richard, Charles, Christopher, and Alexandra.

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Abstract of Dissertation Presented to the Graduate School of the University of Florida in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy

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This study explored the problem of how closely broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials, the impact of the guidelines on coverage, and whether use of courtroom cameras results in undistorted coverage without observable disruption to the judicial process. The study focused on the process of broadcast coverage of four criminal trials in Florida's Eighth Judicial Circuit in 1989.

Four research questions were analyzed:

1. How closely do broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials?

2. What impact do the guidelines have on coverage?

3. Do broadcast journalists present undistorted coverage of criminal trial proceedings?

4. Do broadcast journalists observably disrupt the judicial process at the trial court level?

The primary method of data collection was participant observation. Interviews with trial participants were conducted prior to the observation period and during each trial. Content analysis of trial coverage presented by four broadcast stations was also included.

The results indicate general satisfaction with media behavior by courtroom participants. Juror exit polls (50% response rate) appear to uphold these results: respondents selected answers most favorable to the press 35% of the time, answers neutral toward the press 58%, and answers least favorable to the press 7% of the time.

It is concluded first, that the Florida Guidelines are appropriate and should continue to be strictly adhered to. In the interest of improved coverage, media policy makers might work with courtroom personnel to permanently wire courtrooms to accommodate broadcasters.

Second, rather than specific fact errors, the major cause of perceived distortion is an intuition that brevity of coverage might lead to misunderstanding. Media policy makers might attempt fuller coverage of trials.

Finally, although no specific examples of disruption were cited by participants or noted by the researcher, improved education of broadcast journalists and "beat" coverage of courtroom news might decrease the perceived potential for disruption.

The first full study of actual courtroom behavior is of limited generalizability. However, future research should validate its findings that traditional speculation as to possible disruption to the judicial process by courtroom cameras appears to be unwarranted.

CHAPTER 1
INTRODUCTION

> Permitting television in the courtroom undeniably has mischievous potentialities for intruding upon the detached atmosphere which should always surround the judicial process. Forbidding this innovation, however, would doubtless impinge upon one of the valued attributes of our federalism by preventing the States from pursuing a novel course of procedural experimentation.
>
> Justice John Harlan, *Estes v. Texas*, 1965

This study explores how closely broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials, the impact of the guidelines on coverage, and whether the use of courtroom cameras results in undistorted coverage without observable disruption to the judicial process. The study focuses on the process of broadcast coverage of four criminal trials in Florida's Eighth Judicial Circuit in 1989.

Traditional objections to courtroom cameras have revolved around their presumed impact on the process of the trial. Legal scholars have discussed the Constitutional aspects of coverage, and social scientific research has been conducted in experimental settings to test apparent effects. Now that news cameras are allowed in courtrooms, it is time to examine their actual role in news media coverage of the

judicial process rather than the theoretical effects on participants and public.

This study is an effort to conduct such an examination. Through participant observation of news media behavior, and through interviews with news and court personnel and trial participants, as well as content analyses of news stories, the researcher has gathered data which should contribute to a better understanding of the actual role the television cameras play, and, as necessary, to suggested refinements in current practices. The development of courtroom cameras will be described in detail after a brief introduction to Free Press/Fair Trial issues.

Free Press/Fair Trial

The conflict between Free Press and Fair Trial (or, as the legal community sees it, between Fair Trial and Free Press) has been present at least since the controversy over coverage of the 1807 treason trial of Aaron Burr.[1] Lofton[2] has written a classic study of the relationship between the press and the judiciary in the U.S.: he defends the press against popular misconceptions but also chronicles a handful of cases in which the behavior of the press contributed to a miscarriage of justice. Friendly and Goldfarb[3] similarly conclude that although Free Press/Fair Trial problems are minimal, some coverage of crime news is excessive, and the press should institute self-restraint.

However, the decisions in a half dozen High Court cases in more recent times may be briefly mentioned to highlight such issues as prior restraint, "gag orders," and access to courts--before turning to the specific question of courtroom cameras--as the Court balances the rights of the press to report court proceedings against the defendant's right to receive a trial by an impartial jury.

Of particular relevance is *Nebraska Press Assn. v. Stuart* (427 U.S. 539, 1976). In this case, in advance of a trial of a Nebraska farmhand for the murders of all six members of a family (for which the defendant was ultimately convicted), the judge ordered all news media to refrain from publishing any confessions or other facts "strongly implicative" of the accused.

Speaking for a unanimous Court, Chief Justice Warren Burger held that the trial judge should have considered alternative means of protecting the defendant's rights, such as change of venue, continuance, strict *voir dire*. admonitions, or sequestering of the jury, in preference to the restraints on the press. According to Burger, "[P]rior restraints on speech and publication are the most serious and the least tolerable infringement on First Amendment rights" (at 559).

A second area in which the Court must balance First Amendment and Sixth Amendment rights regards access to courts: here, too, the Court generally tips the scale in

favor of free expression, although less absolutely than in the case of prior restraints. The Court held in *Craig v. Harney* (331 U.S. 367, 1974) that "[A] trial is a public event. What transpires in the court room is public property. . . . Those who see and hear what transpired can report it with impunity" (at 374). Although in *Gannett v. DePasquale* (443 U.S. 368, 1979) the Court held the press had no constitutional right to attend pretrial hearings, in a later case, *Press-Enterprise v. Riverside Sup. Ct.* (478 U.S. 1, 1986), the Court held the defendant must show openness would cause "substantial probability" of danger to a free trial; however, the court emphasized the qualified nature of the presumption of openness.

A year after *Gannett*, the Court, switching from a Sixth Amendment to a First Amendment approach, ruled that closing a trial absent an overriding competing interest violated the First and Fourteenth Amendments. Although *Richmond Newspapers v. Virginia* (448 U.S. 555, 1980) did not overrule *Gannett*--instead distinguishing on grounds of the difference between a pretrial hearing and a trial--*Richmond* is generally regarded as a landmark case in determining press rights of access.

In *Richmond*, the Court held a defendant's request to exclude the public from his trial should not have been granted. Justice Warren Burger (joined by White and Stevens) discussed the history of open trials: "People in an open

society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing" (at 572), and he concluded, "Plainly it would be difficult to single out any aspect of government of higher concern and importance to the people than the manner in which criminal trials are conducted" (at 575).

Richmond did not create an absolute right of access to trials, and the press is not guaranteed access to all aspects of the judicial process. True, in *Press-Enterprise*, the Court had ruled in favor of a qualified privilege of access to pretrial hearings, absent a "substantial probability" of endangering a free trial. However, in states such as Florida, recent cases[4] have gone against access to discovery material, based on a unique civil case.[5] Moreover, observers have noted that as closing of courtrooms is no longer an option to prevent prejudicial publicity, "gag orders" limiting trial participants' statements outside the courtroom (an alternative to closed courtrooms offered by *Sheppard v. Maxwell*, 384 U.S. 333, 1966) may become more attractive to judges.[6] This apparent trend among judges, upon whom rests the initial burden of balancing the rights of the press and the rights of the defendant, is noteworthy.

Mention of closely related issues considered by the High Court is relevant in any discussion of Free Press/Fair Trial. For instance, regarding contempt: the Court has

limited the power of judges to punish for publication of material obtained out of court (*Bridges v. Ca*, 314 U.S. 252, 1941). As for material obtained during the trial, the press must follow the judge's orders even if they are later determined unconstitutional (*U.S. v. Dickinson*, 465 F.2d 496, 5th Cir., 1972. But for a different interpretation, see *U.S. v. Providence Journal*, 485 U.S. 673, 1988, dismissed on procedural grounds: the appeals court had held that if the publisher made a "good faith effort" to appeal a "transparently unconstitutional" order and was denied a hearing, he might go ahead and publish in the interim.)

However, it is in the final area of Free Press/Fair Trial conflict, courtroom cameras, that the law is most unsettled in the High Court's weighing First Amendment versus Sixth Amendment rights. Even First Amendment absolutists such as Justice William Douglas have decried cameras as an "insidious" intrusion into the decorum of the court and the judicial process.

The Curious History of Canon 35

Canon 35, the American Bar Association's prohibition against courtroom cameras, stood virtually intact for nearly 50 years. Only recently, however, have the revisionists brought one or two curious aspects of the issue to light. For instance, it had generally been accepted that the behavior of cameramen inside the courtroom at the trial of

Bruno Hauptmann for the kidnap and murder of the Lindbergh baby inspired the ABA to pass the prohibition. However, critics now point out that there were other factors which contributed to the circus-like atmosphere of the Hauptmann trial, and the development of Canon 35 should not be viewed as a result solely of courtroom cameras as employed in 1935.[7]

Moreover, a close examination of the proceedings of the ABA during the 1930s as Canon 35 developed provides an alternative explanation for the ban. First, in the United States during this time there was a "press-radio war" taking place: print journalists were fighting the advent of broadcasting, including radio and the nascent television industry. Second, the traditional tension between press and bar was reflected in the attempts of the members of the committees on Free Press Fair Trial issues to work together under the auspices of the American Bar Association. Finally, the organizational politics of the ABA also affected the development of Canon 35; in fact, in 1937 the ABA ignored the guidelines for courtroom cameras recommended by one of its committees specifically appointed to consider the issue and favored the sudden adoption of the flat ban on courtroom cameras proposed by another committee.

In 1935, Bruno Richard Hauptmann was tried for the 1932 kidnap and murder of the eighteen-month-old son of Charles Lindbergh.[8] The trial, in tiny Flemington, New Jersey, was among the most widely publicized in history, with an

estimated 700 newsmen, including 120 cameramen, covering the trial.[9] The presiding judge, Thomas Trenchard, allowed newsreel and still photographers in the courtroom with the proviso that they follow his guidelines restricting photographic coverage.[10] Only when he discovered that one of the newsreel companies had violated his order to keep the cameras in the courtroom turned off during actual court proceedings did the judge withdraw his permission for film cameras inside the courtroom; still cameramen were allowed to remain.[11]

Photographer Joseph Costa of the New York Morning World, who covered the trial, recently said that although some still photographs had been taken surreptitiously, the idea that the cameramen inside the courtroom disrupted the Hauptmann trial was a myth.[12] Costa called the myth a "falsehood" and a "total fabrication," which he said was picked up by researchers and students writing dissertations. Researcher Richard Kielbowicz was then one of the first to present the revisionist interpretation of events.[13]

Hauptmann juror Ethel Stockton repeatedly has insisted still and film photographers caused no problem in the courtroom. She said, "I didn't even know they had cameras there until I got home after the trial and saw the pictures in the newspaper."[14]

Examination of contemporary press accounts of the Hauptmann trial led Susannah Barber to conclude that the

traditional interpretations regarding the Hauptmann trial were indeed incorrect. The "carnival atmosphere" in the courtroom was not created primarily by photographers but by "prejudicial press reports, contemptuous statements by the trial attorneys and police, the rowdy behavior of the 150 spectators crammed inside the courtroom, by the too numerous reporters who descended on the trial, and by the neglectful judge."[15]

The ABA appointed a Special Committee on Publicity in Criminal Trials, headed by Judge Oscar Hallam, to study the problems caused by press coverage of the Hauptmann trial, and Hallam's Report of the Special Committee on Publicity in Criminal Trials cited four specific reasons for the committee's objections to courtroom cameras: sound reproduction did not allow for deletion of offensive matter; cameras included inadmissible and prejudicial material; cameras dramatized court proceedings, and the use of cameras (*i.e.*, radio) brought "the revolting details of a murder trial, its crime story and its sensational matter to children of all ages."[16] Hallam and his committee's strong objection to coverage may have been the most influential aspect of the events which ultimately led to the flat ban on courtroom cameras, Canon 35.

The ABA's Special Committee on Press, Radio, and Bar, chaired by Newton Baker, succeeded Hallam's committee in 1936. There were seven representatives of the American

Newspaper Publishers Association (ANPA) on the new committee and five who represented the American Society of Newspaper Editors (ASNE). The Report cautioned that although jury members could be shielded from newspaper coverage of trials, headlines, and especially photographs, might catch the eye of a juror. Even worse, according to the Report, was radio coverage and its concomitant "evil of the trial in the air."[17]

It was not surprising that a committee in which the sole press representatives were executives of newspapers would be unanimous in its wariness toward broadcast coverage of courtrooms. In fact, during the 1930s, a "press-radio war" was being fought. Newspapermen resented the upstart medium, viewed as a threat to their advertising income, and employed such tactics as threatening to boycott wire services which supplied broadcasters with stories.[18]

Thus, the Baker Report, written by a committee of newspaper men and lawyers during the "press-radio war," emphasized special caution in broadcasting courtroom proceedings. The Report noted that suggestions had been made from the start that representatives of radio should be added to the Committee but that members felt the current committee "adequately represented those most directly concerned."[19]

The one issue about which the members of the Baker Committee did not agree was the consent requirement regarding cameras in the courtroom.[20] Thus, the divisive issue was *how*

to implement courtroom coverage--not *whether* courtroom coverage should be allowed.

On September 27, 1937, the ABA convention delegates voted to accept the Baker Committee recommendations and to extend the Baker Committee for another year so that the final issue of conflict--specifics of control of courtroom cameras--could be resolved. Then, just three days after the Baker Report was accepted, the same delegates, at the same ABA convention, voted without discussion to accept a package of recommendations from the Standing Committee on Professional Ethics. This package included a flat ban on courtroom cameras, Canon 35:

Improper Publicizing of Court Proceedings

> Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom during sessions of the court or recesses between sessions, and the broadcasting of such proceedings are calculated to detract from the essential dignity of the proceedings, degrade the court and create misconceptions with respect thereto in the mind of the public and should not be permitted.[21]

Why did the ABA pass Canon 35 three days after voting to accept the Baker Committee Report which called for another year to work out specifics of courtroom coverage? Why would an organization ignore two years' work by one committee, specifically appointed to work out Free Press/Fair Trial guidelines, and adopt a conflicting recommendation from a standing committee? One potential explanation lies in the politics of the ABA.

The principal ABA member on the Special Committee--the one who (ironically) was selected actually to deliver the Baker Report to the ABA convention--was Judge Oscar Hallam. Hallam had written the earlier study on coverage of the Hauptmann trial and had released part of it to the ABA delegates and to the press despite objections from others involved. Hallam, one might infer, may have had some concern that his own report, which had called for a flat ban on courtroom cameras, had been suppressed in favor of a report which called for developing guidelines to implement camera coverage.

The events surrounding the adoption of Canon 35 were symptomatic of continued bickering among ABA factions. Thus, self-criticism by the Bar of the manner in which the ABA had adopted Canon 35 was a long time coming. ABA member Albert Blashfield, representing those then concerned with revising Canon 35, wrote in the 1962 Bar Journal of the genesis of Canon 35 "with the hope that the story will serve to encourage a more responsible and objective approach to the proposed revision." Blashfield pointed out that in 1937 there had been no reference to the Baker Report when Canon 35 was adopted, no discussion of the Canon, no dissenting vote.[22]

One other ABA member, Elisha Hanson, representing a 1958 coalition of press groups hoping to revise Canon 35, had also gone on record noting the "curious history" of Canon 35:

> Entirely without reference to the work of the Special Committee on Cooperation with the Media, the Committee on Professional Ethics and Grievances proposed the adoption of a new canon--the present Canon 35. Its motion was carried without discussion. Canon 35 was not only drastic but punitive in effect--the very antithesis of what the Committee on Cooperation was striving for. Its adoption was a rebuff not only to the Special Committee, but to the media committees as well. Its adoption pointed up not only a deep-seated conflict within this Association, but an equally deep-seated resentment by some members of this Association against the media.[23]

The Supreme Court Decisions and Cameras in State Courts

Canon 35 remained in effect for more than 40 years. The ABA Committee on Ethics handed down a handful of opinions regarding the Canon.[24] There was only one significant revision: television was specifically added to the prohibition in 1952.[25] Although there was continued debate about revising or even revoking Canon 35, and some coverage was permitted in such state courts as Kansas, by 1965 state bar associations everywhere but in Colorado and Texas had adopted bans on courtroom cameras.[26]

Moreover, from 1959 through 1966, the U.S. Supreme Court had overturned convictions in five cases due to lack of due process caused by pretrial publicity or press coverage of trials.[27] Two of these cases, *Estes v. Texas* and *Sheppard v. Maxwell*, to different degrees had involved television cameras.

Estes v. Texas (381 U.S. 532, 1965) is considered the first of two landmark courtroom camera cases (the second being *Chandler v. Florida*, 449 U.S. 560, 1981). The court

overturned the swindling conviction of Billie Sol Estes based on denial of due process under the Fourteenth Amendment, mainly because of courtroom coverage. A pretrial hearing had been carried live on television and radio, and, although live broadcasting was forbidden during the trial itself, silent cameras operated intermittently, and excerpts were shown on news programs each night.

The decision was split 4-1-4. Justice Tom Clark, speaking for the plurality, held television might improperly influence jurors, impair the testimony of witnesses, distract judges, and burden defendants (at 554-550). Chief Justice Warren (joined by Justices Douglas and Goldberg) concurred, citing the "inherent prejudice" of televised trials (at 552). Justice Harlan limited his concurrence: he wanted to encourage experimentation despite television's "mischievous potentialities" (at 587-601). Justice Stewart (joined by Black, Brennan and White) dissented, saying, "The idea of imposing upon any medium of communication the burden of justifying its presence is contrary to where I had always thought the presumption must lie in the area of First Amendment freedoms" (at 615). Justices White and Brennan also added separate dissents, with Justice Brennan's pointing out the limitations of Harlan's vote and insisting the decision was not a blanket constitutional prohibition (at 617). However, Justice Brennan's caveat notwithstanding, the case was regarded as such.

Although the 1966 decision in *Sheppard v. Maxwell* dealt with pretrial publicity, it reinforced for many the idea that courtroom cameras interfere with the judicial process. *Sheppard* represents perhaps the most egregious reported example of press interference with due process.[28] Dr. Sam Sheppard had been tried for murder of his wife in 1954. A five-hour, three-day inquest was televised live; a prisoner's claims she had borne Sheppard's child were widely publicized; during the trial a debate on the case was broadcast live. The Court held 8-1 (Justice Black dissenting without comment) that due process had been denied, and the conviction was overturned.

Often overlooked in discussion of the case is the Court's holding that the blame lay less with the press than with the trial judge for failing to take proper precautions such as continuance and change of venue. In fact, Justice Clark, speaking for the Court, held "A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field." Moreover, the press "guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism" (at 350).

The Court suggested alternatives, including regulating conduct of the press in the courtroom, insulating the witnesses, and controlling the behavior of trial participants. These suggestions were incorporated into the

ABA's 1969 "Reardon Report," The Rights of Fair Trial and Free Press, which made recommendations as to how to avoid future due process problems which had resulted in overturned convictions.[29]

After *Estes* and *Sheppard*, the ABA strengthened its position on Canon 35. In 1972, the organization revised its Code of Professional Responsibility, and Canon 35 became Canon 3A(7). The revised canon allowed cameras for use by the court for educational purposes only; in essence, the ban remained. Finally, after the Chandler decision and the increase in use of courtroom cameras in the states, at the 1982 ABA convention the delegates voted 162-112 to revise Cannon 3A(7) to allow for broadcast news coverage at the discretion of each state's high court:

Canon 3A(7)

> A judge should prohibit broadcasting, televising, recording or photographing in courtrooms and areas immediately adjacent thereto during sessions of court, or recesses between sessions, except that under rules prescribed by supervising appellate court or other appropriate authority, a judge may authorize broadcasting, televising, recording, and photographing of judicial proceedings in the courtrooms and areas immediately adjacent thereto consistent with the right of the parties to a fair trial and subject to express conditions, limitations, and guidelines which allow such coverage in a manner that will be unobtrusive, will not distract the trial participants, and will not otherwise interfere with the administration of justice.[30]

The issue of courtroom cameras as it developed in Florida, which eventually led to the landmark Supreme Court decision *Chandler v. Florida*, may have influenced the

attitude of the ABA. In 1975, the Post-Newsweek television stations in Florida petitioned the Florida Supreme Court to revise the state's Canon 3A(7) to allow cameras in courts. After a successful mock trial by a cooperative group of lawyers and journalists,[31] the Court agreed to a one-year experiment, provided all participants in a case would agree. When no willing participants had been found after a year, the Court revised the experiment, authorizing coverage as long as the presiding judge agreed. The experiment lasted from July, 1977, through June, 1978. In April, 1979, the Court ruled in favor of the Post-Newsweek petition.

Florida Justice Alan Sundberg wrote the decision in the case, providing a response to six traditional objections to courtroom cameras.[32] He said technological advances had solved most of the problems of physical disruptions. As far as psychological effects, Sundberg concluded although they might be a problem, no one had substantiated these fears. Regarding the charge of exploitation of the courts by commercial media, Sundberg saw no difference between electronic and print media. He found no evidence an accurate electronic transcription would enhance potential for prejudice of witnesses and jurors; guidelines would determine whether certain sensitive witnesses would be exempt from coverage. Finally, regarding the charge that cameras invade privacy, Sundberg concluded, "[T]here is no constitutionally

recognized right of privacy in the context of a judicial proceeding" (at 774-779).

During the *Post-Newsweek* experiment, the first trial to be televised involved a 15-year-old Miami Beach boy, Ronny Zamora, accused of killing his elderly neighbor.[33] The novelty of courtroom cameras, as well as the novel defense--Zamora's attorney argued the boy was the victim of too much TV watching--led the local public television station WPBT to provide gavel-to-gavel coverage of the case in Miami, and stations around the country carried excerpts. With dozens of reporters from around the world covering the case, the potential for a repeat of *Estes* or *Sheppard* existed. However, the case was extensively studied, and the general conclusion among researchers and legal commentators was the coverage did not affect Zamora's Sixth or Fourteenth Amendment rights.[34]

In the second landmark camera case, 1981's *Chandler v. Florida*, two policemen in Miami Beach appealed their convictions for burglary on the grounds they had not had a fair trial due to the presence of cameras in the courtroom; their trial had also taken place during Florida's year-long experiment with courtroom cameras which allowed coverage despite the defendants' objections.[35] Less than three minutes of the trial had been broadcast, all of it from the prosecution's case. Chief Justice Warren Burger delivered the 8-0 opinion of the court, which upheld the convictions on

the grounds the mere presence of cameras did not violate the defendants' right to a fair trial.

After presenting a history of courtroom cameras, Justice Burger described the changing technology of broadcast equipment since *Estes*. He said that although *Estes* had been interpreted by some as a *per se* ban on cameras, the defendants in this particular case had not proved a lack of due process caused by the mere presence of cameras. Although he found "dangers lurk in this as in most experiments," he said that unless television coverage under all conditions were prohibited by the Constitution, states must be free to experiment, and the Court should neither endorse nor invalidate a state's experiment with courtroom cameras (at 582).

Justices Stewart and White each wrote separate concurrences, saying they felt it necessary to overturn *Estes* (at 583-586). But the decision did not overturn *Estes* and, in fact, suggested under similar circumstances a conviction might again be overturned. It did not suggest broadcasters had a constitutional right of access for courtroom coverage. It did not mention federal courts, but limited the holding to state courts, and, in fact, suggested the concept of federalism in support of the decision. What it did do was to emphasize the need for stringent guidelines regarding courtroom coverage and call for more research on the effects of coverage on defendants' rights.

Since Florida's experimental period, observers contend the state may have televised more trials than any other.[36] Although many of these case have involved sensational murders, such as the trials of Mark Herman in Palm Beach in 1978,[37] and the trials of serial murderer Ted Bundy in 1979,[38] the general consensus among journalists covering the trials has been the defendants received a fair trial.

In fact, Florida courts historically have upheld the right of the electronic media to enter the courtroom despite motions to exclude them. Even prior to *Chandler*, the state constitutionality of the new camera rules had survived challenges (*Briklod v. Rivkind*, 2 Med. L. Rptr. 2258, 1977; *Trinidad v. Stettin*, 5 Med. L. Rptr. 1171, 1979). After *Chandler*, in three cases (*Florida v. Russell*, 8 Med. L. Rptr. 2176, 1982; *Florida v. Pryor*, 10 Med. L. Rptr. 1902, 1984; and *Florida v. Garcia*, 12 Med. L. Rptr. 1750, 1986), the courts denied petitions to exclude cameras on grounds of failure to meet the "qualitative differential test," *i.e.*, the suggestion in *Post-Newsweek* that the burden would be on the defendant to show electronic coverage would have a significantly different impact from print coverage, a difference which would affect due process rights.

In two sensitive cases, one involving a juvenile charged with killing his parents (*In Re B.P.*, 9 Med. L. Rptr. 1151, 1983) and one involving a defendant charged with rape (*Lang v. Tampa TV*, 11 Med. L. Rptr. 1150, 1984), television

cameras were permitted (although showing the juvenile in the former and the victim in the latter were prohibited). Also, in *Florida v. Palm Beach Newspapers* (395 So. 2d 544, 1981), the court held that although it might have granted a request to exclude cameras when prisoner witnesses at a convict's murder trial refused to testify with cameras present ("The electronic media's presence in Florida's courtrooms is desirable, but it is not indispensible," at 549), in this specific case the exclusionary hearing had been faulty (and the issue was moot, in any case).

Likewise, Florida courts rarely overturn convictions where cameras are alleged to have interfered with due process. One exceptional case was *Florida v. Green* (395 So. 2d 532, 1981), in which the exclusion of cameras from a lawyer's grand larceny case had been denied, even though the defendant's psychologist had testified coverage would render her client incompetent to stand trial; the court remanded for a new trial.

But at least three other attempts to have murder convictions in Florida courts overturned on grounds including presence of courtroom cameras were denied on grounds of failure to show interference with due process: *Clark v. Florida* (379 So. 2d 97, 1979); *King v. Florida* (390 So. 2d 315, 1980); and the aforementioned *Herman v. Florida* (396 So. 2d 222, 1981, sentencing partially reversed on other grounds).

As Florida and the other states have continued to experiment with courtroom cameras, two modest trends among reported cases might be noted. The first is toward more generally allowing cameras into the courts, absent exceptional circumstances. For instance, in only a handful of reported cases have cameras been denied entry. Before *Chandler, Tribune Review v. Thomas* (254 F.2d 883, 1958) upheld the Pennsylvania ban; after *Chandler, KARK-TV v. Lofton* (9 Med. L. Rptr. 1016, 1982) upheld the Arkansas provision allowing exclusion of cameras upon the defendant's request. In Georgia, a ban was upheld in the sensational child-murder case of Wayne Williams (*Georgia v. Williams*, 7 Med. L. Rptr. 1849, 1981) after testimony that psychological harm might be inflicted on child viewers. A second ban in Georgia was upheld in the case of a retrial of a defendant whose prior conviction had been vacated due to extensive pretrial publicity (*Georgia TV v. Georgia* 363 S.E.2d 528, 1988). And in New York, in two recent sensational trials--the "Howard Beach" murder trial (*New York v. Kern*, 137 A.D. 862, 1988) and the "Preppy Murder" trial (*New York Times v. Bell*, 135 A.D.2d 182, 1988)--due to the sensitive nature of the crimes, both were considered by respective trial judges as unsuitable for coverage during the New York experiment with courtroom cameras.

In contrast, in at least a dozen other cases, the electronic media have been allowed in the courtroom even over

the defendant's objections. For instance, there have been three cases in Ohio: *Ex Rel Grinnell Communications v. Love*, 406 N.E.2d 809, 1980; *Ohio Ex Rel Miami Valley Broadcasting v. Kessler*, 413 N.E.2d 1203, 1980; and *Ohio Ex Rel Cosmos Broadcasting v. Brown*, 471 N.E.2d 874, 1984 (decision based on First Amendment grounds--"[U]nless there is an overriding consideration to the contrary . . . representatives of the electronic news media must be allowed to bring their technology with them into the courtroom," at 883).

Thus, the media have successfully survived challenges to entry to the courtroom. Further examples include cases in New Mexico (*New Mexico ex rel Journal Publishing v. Allen*, 8 Med. L. Rptr. 1320, 1984--although the issue was moot); in Wisconsin (*Wisconsin v. Koput*, 10 Med. L. Rptr. 1932, 1984); in two cases in Georgia (*Multimedia v. Georgia*, 353 S.E.2d 173, 1987--although the issue was moot, and *Georgia TV v. Napper*, 14 Med. L. Rptr. 2382, 1988--allowing coverage of hearings on allegations of drug use by former State Senator Julian Bond); in Kansas (*Kansas v. Garrett*, 11 Med. L. Rptr. 2385, 1985--although coverage of the defendant was prohibited); and in New York (*New York v. Torres*, 529 N.Y.S. 954, 1988--coverage of sentencing in the case of a defendant convicted of killing a nun was allowed with limitations).

Even more significant, however, is the upholding of convictions despite defendants' claims of denial of due process due to the presence of courtroom coverage, including

camera usage. True, a few convictions were overturned: for instance, in one early Illinois case, *People v. Munday* (117 N.E. 286, 1917), the conviction was overturned on several grounds, including actual interruption of the proceedings by photographers. And the flurry of reversals in the Warren Court years of the 1960s (although none but *Estes* significantly involved courtroom cameras) has already been noted.[39] Likewise, a conviction was overturned in *Hudson v. Georgia* (132 S.E.2d 508, 1963): in that case a radio microphone had been placed within five feet of the defense table. In *Callahan v. Lash* (381 F. Supp. 827, 1974, involving a conviction for murder of a police officer), a new trial was ordered on due process grounds, including the presence of four cameras inside an "excessively cluttered" courtroom.

However, with the exception of the aforementioned *Florida v. Green*, it appears no convictions have been overturned due to courtroom cameras since *Chandler*. And even back in 1951 in California, in *People v. Stroble* (226 P.2d 330, 1951), the court had held that although at that time courtroom cameras were "improper," there was "no indication that the jury's verdict was influenced by the taking of the pictures or the televising of courtroom scenes" (at 334), and the conviction had been upheld.

A similar decision was reached in Oklahoma in 1958 (*Lyles v. Oklahoma*, 330 P.2d 734). The court held that the

bans were recommendations, not law, and that "Basically there is no sound reason why photographers and television representatives should not be entitled to the same privileges of the courtroom as other members of the press" (at 741).

In several other cases the courts have upheld convictions despite due process challenges including reference to courtroom cameras. Examples include *Gonzales v. Colorado* (438 P.2d 686, 1968), *Oregon v. Wampler* (569 P.2d 146, 1977), *New Jersey v. Newsome* (426 A.2d 68, 1980), *Washington v. Wixon* (631 P.2d 1033, 1981), and *Halsey v. Bonar* (683 S.W.2d 898, 1985).

Most dramatically, in *Massachusetts v. Cordeiro* (519 N.E.2d, 1328, 1988), the convictions of the defendants in the "Big Dan Rape Case" were upheld, despite their charges of denial of due process. The defendants contended that the judge's decision allowing broadcast coverage of the trial, but excluding coverage of the alleged victim, prejudiced the jurors against them; the court held it was within the discretion of the trial judge to control coverage.

Moreover, there seem to be fewer instances of the courts' upholding contempt convictions of those who violate the bans. One of the first contempt cases, *In Re Mack* (126 A.2d 679, 1956), involved photographers, supported by newspaper publishers, who responded to a court's suggestion that they challenge the court ban by violating it--and their subsequent citations for contempt were upheld by the appeals

court. Appeals Court Judge Michael Musmanno--who had been a judge at the Nuremberg trials, which he pointed out had been televised--wrote a lengthy "dissent to the ultimate" in which he said the journalists had been double-crossed by the court. In *Brumfield v. Fla.* (108 So. 2d 33, 1959), the contempt citations for photographers who violated a ban against photos of a prisoner on his way to arraignment were also upheld. However, few examples of upholding of contempt by the court in recent years turn up in the case reporters.[40]

At any rate, as of 1980, 45 states (all but Indiana, Mississippi, Missouri, South Carolina, and South Dakota--along with the District of Columbia)--permitted some type of courtroom coverage. (Texas allows audio coverage only in appellate courts.) States allowing cameras have adopted guidelines governing such issues as coverage of cases involving juveniles as well as testimony of certain witnesses.[41] New York's experiment with cameras in trial courts received extensive press coverage, particularly the child-abuse trial of Joel Steinberg and Hedda Nussbaum.[42] However, despite the 1982 revision of Canon 3A(7) and the activity in state courts, there are still no cameras allowed in federal courts. (See Table 1-1, Camera Coverage of State Courts.)

TABLE 1-1

CAMERA COVERAGE OF STATE COURTS

States with Permanent Rules

	Effective Date		Courts	
	Experimental	Permanent	Level	Division
Alabama***		02/01/76	Trial & Appellate	Civil & Criminal*
Arizona	05/31/79	07/01/83	Trial & Appellate	Civil & Criminal
Arkansas**	01/01/81	03/08/82	Trial & Appellate	Civil & Criminal
California	06/01/80	07/01/84	Trial & Appellate	Civil & Criminal
Colorado		02/27/56	Trial & Appellate	Civil & Criminal*
Connecticut	1982	10/01/84	Trial & Appellate	Civil & Criminal
Florida	07/05/77	05/01/79	Trial & Appellate	Civil & Criminal
Georgia		05/12/77	Trial & Appellate	Civil & Criminal*
Hawaii	01/01/84	12/07/87	Trial & Appellate	Civil & Criminal
Idaho	12/04/78	08/27/79	Supreme Court in Boise	
Idaho	10/09/79	10/01/80	Supreme Court on Circuit	
Illinois	01/01/84	01/22/85	Appellate	
Iowa	01/01/80	01/01/82	Trial & Appellate	Civil & Criminal
Kansas	09/14/81	09/01/88	Trial & Appellate	
Kentucky		07/01/81	Trial & Appellate	Civil & Criminal
Louisiana****	07/13/79	04/30/85	Appellate	
Maine	04/02/82	03/13/84	Supreme Court	
Maryland	01/01/81	07/01/82	Appellate	
Maryland**	01/01/81	07/01/84	Trial	Civil
Massachusetts	04/01/80	01/01/83	Appellate	
Massachusetts	06/01/80	01/01/83	Trial	Civil & Criminal
Michigan	02/01/88	01/13/89	Trial & Appellate	Civil & Criminal
Minnesota	01/27/78	04/20/83	Appellate	
Montana	04/01/78	04/18/80	Trial & Appellate	Civil & Criminal
Nebraska	10/01/82	10/01/83	Supreme Court	
New Hampshire		01/01/78	Trial & Appellate	Civil & Criminal
New Jersey	05/01/79	10/08/80	Appellate	
New Jersey	05/01/79	06/09/81	Trial	Civil & Criminal
New Mexico	07/01/80	01/01/83	Dist. & Appellate	Civil & Criminal
New York		01/01/81	Appellate	
North Dakota	02/01/79	07/01/80	Supreme Court	
Ohio***	06/01/79	01/01/82	Trial & Appellate	Civil & Criminal
Oklahoma***	01/01/79	02/22/82	Trial & Appellate	Civil & Criminal*
Tennessee***		02/27/79	Trial & Appellate	Civil & Criminal*
Vermont	07/01/84	09/01/88	Supreme Court	
Washington***		09/20/76	Trial & Appellate	Civil & Criminal
West Virginia	01/01/79	05/28/81	Trial & Appellate	Civil & Criminal
Wisconsin	04/01/78	07/01/79	Trial & Appellate	Civil & Criminal

Table 1-1--Continued.

States with Experimental Rules

	Effective Date	Period	Level	Division
Alaska	08/24/78	To 1/15/90, then permanent	Trial & Appellate	Civil & Criminal
Delaware	05/01/82	Extended Indefinitely	Supreme Court	Civil
Idaho	01/04/82	Extended Indefinitely	Court of Appeals	
Minnesota**	04/18/83	Unofficially Extended	Trial	Civil & Criminal
Nevada	04/01/80	Unofficially Extended	Trial & Appellate	Civil & Criminal
New Jersey	01/03/84	Indefinite	Municipal Courts	Civil & Criminal
New York	12/01/87	Extended to 05/31/91	Selected Trial Courts	Civil & Criminal
North Carolina	10/18/82	Extended to 6/30/90	Trial & Appellate	Civil & Criminal
Oregon	06/01/83	Indefinite	Appellate	Civil & Criminal
Pennsylvania**	10/01/79	Extended Indefinitely	Trial, nonjury	Civil, Superior Court
Rhode Island	10/01/81	Extended Indefinitely	Trial & Appellate	Civil & Criminal
Utah#	01/01/88	Completed, awaiting decision	Supreme Court	Civil & Criminal
Virginia	07/01/87	Extended to 6/30/90	Trial & Appellate	Civil & Criminal
Wyoming	08/14/81	Extended Indefinitely	Supreme Court	

* Consent of accused required in criminal trials.
** Consent of parties and witness required.
*** No coverage of individuals who object.
**** Subject to approval of the individual court.
# Still photography only in trial courts.

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The Federal Courts

Cameras have been banned from federal courts since the 1946 adoption of Rule 53 of the Federal Rules of Criminal Procedure.[43] In 1962, the Judicial Conference adopted a resolution prohibiting cameras in any federal courts, thus including civil proceedings, and, in 1972, the Judicial Conference incorporated the ABA Code of Judicial Conduct Canon 3A(7).[44] As discussion of courtroom coverage in federal courts generally has centered on the possibility of coverage in the U.S. Supreme Court, a description of the development of broadcast coverage of the High Court is appropriate at this time.

The press corps covering the Supreme Court has grown from fewer than half a dozen reporters in the 1930s to more than 50 today,[45] including correspondents from all three major television networks and Cable News Network (CNN).[46] Many reporters, including those for the television networks (beginning with NBC's Carl Stern in 1967 followed by CBS' Fred Graham in 1972 and ABC's Tim O'Brien in 1977), have law degrees.[47]

In 1983, researcher Ethan Katsh studied the extent to which the three television networks covered the Supreme Court.[48] He reported that from 1967-1981, each network had covered approximately one out of five decisions handed down, with one out of ten of the decisions analyzed by the network's legal correspondent.[49]

In 1987, researcher Richard Davis included CBS News coverage (along with that of two newspapers) in a study of media portrayal of the U.S. Supreme Court.[50] Of a random sample of 32 CBS Evening News broadcasts, Davis found only one included a story on the Supreme Court.[51]

There is general agreement that the institution of the Supreme Court itself is a major impediment to more coverage by television. As Congressional Quarterly explains, "[T]he Court, almost by definition, is a rigid, tradition-bound, and intensely secretive institution, while the press is, by necessity, adaptive, exploratory, and devoted as a matter of principle to the elimination of secrecy."[52] Paletz and Entman point out the two main strategies of the Supreme Court in dealing with the media: "[A]ccentuate the majesty of the Court, and minimize access to its inner workings."[53]

The Court makes minimal accommodation to the press and at one time considered closing the press work room.[54] Until 1965, decisions were announced only on Mondays; since 1971 the practice has been when hearing arguments (October through April), the Court announces opinions only on Tuesdays and Wednesdays, then, in May and June, on Mondays along with the orders.[55] There is no prior announcement as to when cases will be handed down.[56] Since 1971, the Justices announce most opinions, many of them complex and confusing even for members of the legal profession, in two to four minutes, stating only the result of each case.

As Katsh points out, announcing the decisions in clusters on one or two days makes it less likely any single decision will be covered, as does the practice of announcing more than one third of the decisions in June.[57] ABC's Tim O'Brien says that Katsh's study of the Evening News leaves out the other 90 percent of news and public affairs programming such as ABC's "Nightline" which explores issues confronting the Supreme Court. However, O'Brien does cite the networks' 22-minute limit for the Evening News combined with the Court's tendency to announce the preponderance of its decisions in June as an "annual, unyielding nightmare."[58]

Furthermore, the veil of secrecy surrounding the activities of the members of the High Court is well documented (most dramatically in Woodward and Armstrong's 1979 The Brethren).[59] At times when reporters penetrate the shield of secrecy surrounding the Justices or the Court (as NPR's Nina Totenberg did in 1977 and ABC's O'Brien did in 1979),[60] the Court responds by limiting access even more.[61] As Tim O'Brien once described it, "Most Justices avoid reporters like lepers."[62]

Researcher Davis suggests certain constitutional and political weaknesses of the Court--for instance, the need to exercise caution in defining its own role in the national government--have necessitated a norm of institutional loyalty, with individual Justices' avoiding actions detrimental to the Court.[63] However, the norm

notwithstanding, some individual Justices have recently allowed reporters, including broadcast journalists, to interview them, such as Justice Brennan on NBC's "Today Show" in April 1986,[64] and Justice Blackmun on the syndicated "Superior Court" in February of 1987,[65] and Justice Brennan on NPR's "All Things Considered," also in February of 1987.[66] In 1987-1988, in honor of the Bicentennial of the U.S. Constitution, the Justices participated in several educational programs. The most elaborate was a two-part documentary on the High Court which included unprecedented behind-the-scenes footage; it was aired on PBS stations in May, 1988.[67]

There have been some recent attempts to open federal courts to cameras. For instance, in 1982, an attempt to televise hearings on a lawsuit concerning a congressional redistricting plan--hearings which were held in the federal courthouse in Denver--was unsuccessful: in *Combined Communications v. Finesilver* (672 F.2d, 818, 1982), the court held the local rule banning electronic media in the federal courthouse applied, and the question of application of the Colorado Open Meetings Law was "irrelevant."

In 1983, then U.S. District Judge Alcee Hastings of Miami unsuccessfully sued to allow cameras into his trial for allegedly conspiring to solicit a bribe. Although his request was denied and the denial upheld on appeal, a concurring judge in the appeals case said the issue of camera

coverage of federal courts is "ripe for reconsideration by the appropriate rulemaking authority."[68]

A petition by CBS to televise the libel trial--in which the network news department was the defendant--brought by General William Westmoreland was denied (*Westmoreland v. CBS in re Waiver*, 752 F.2d 16, 1984): the appeals court held that although it acknowledged that such coverage would provide a public service, "[U]ntil the First Amendment expands to include television access to the courtroom as a protected interest, television coverage of federal trials is a right created by consent of the judiciary . . . a consent which the federal courts . . . have not given" (at 24).[69] Also in 1984, a newspaper reporter's request to bring a tape recorder into a courtroom in a civil trial was denied: in *U.S. v. Yonkers Board of Education* (747 F.2d 111), the court held that the local rule banning electronic equipment in a courtroom was a reasonable "time, place, and manner" regulation.

In *U.S. v. Kerley* (753 F.2d 617, 1985), the defendant (indicted for failure to register for the draft) petitioned the court to be allowed to videotape his own proceedings: citing *Hastings*, the court held Rule 53 was not unconstitutional. Journalists wishing to televise coverage of the federal fraud and racketeering trial of Louisiana Governor Edwin Edwards were likewise unsuccessful (*U.S. v. Edwards v. Wise*, 785 F.2d 1293, 5th Cir., 1986), as were those attempting to cover electronically the racketeering

trial of union officials (*Conway v. U.S., Presser*, 852 F.2d 187, 6th Cir., 1988).

However, in at least one case (*Dorfman v. Meiszner*, 430 F.2d 558, 1970), the court held that the local rule forbidding broadcasting in a Chicago courthouse/federal office building went beyond the scope of the First Amendment, and parts of the building were opened to the electronic media. And in 1983 in *Hutchinson v. Marshall* (9 Med. L. Rptr. 2443), the federal district court dismissed the petition of a state prisoner who complained about a four-month delay in his trial while television stations challenged bans on broadcast coverage. (The Ohio state case was discussed earlier, *Ex Rel Miami Valley Broadcasting*.)

Moreover, as in the state courts, most attempts to have convictions overturned on courtroom-camera/due-process grounds have generally failed in the federal courts. For instance, in *Bell v. Patterson* (279 F. Supp. 760, 1968), the court upheld a murder conviction on various grounds, despite charges of disruption by photographers (still and television, allowed in the courtroom only for the verdict). In Texas (which allowed cameras in courts until 1974),[70] in *Bradley v. Texas* (470 F.2d 785, 1972), an aiding and abetting murder conviction was upheld despite complaints including camera coverage. In Iowa, the conviction for murder of a police officer in *Zaehringer v. Brewer* (635 F.2d 734, 1980) was upheld. In *Zaehringer*, the court held that televising of the

sentencing hearing "deprived the petitioner of his right of due process"--both the trial judge and the prosecuting attorney were candidates for reelection a month after the hearings and figured prominently in the coverage. However, the conviction was upheld due to lack of evidence that the sentence itself was prejudiced by the cameras.

In at least two cases, contempt citations for photographers violating camera bans in federal courts were upheld on due process grounds. In *Seymour v. U.S.* (373 F.2d 629, 1967), a television news photographer in Texas photographed a defendant in the hallway outside the courtroom. And in Kansas in 1975, a newspaper photographer was cited for contempt for taking pictures of federal prisoners in prohibited areas of the federal courthouse: in *In re Mazzetti v. U.S.* (518 F.2d 781), the bans were found to be a reasonable implementation of due process safeguards.

However, despite the record in the federal courts, proponents of federal courtroom camera coverage see some signs of possible change in developments outside the court. For instance, in April of 1986, the cable television network C-SPAN produced a five-hour segment of its series "America and the Courts" entitled "A Focus on the Federal Judiciary."[71] The program included interviews "live" from inside the U.S. Court of Appeals, D.C. Circuit, as well as recorded interviews such as one with then D.C. Circuit Judge Antonin Scalia.[72] The same week, then Chief Justice Warren Burger

told the American Society of Newspaper Editors he might consider allowing C-SPAN to cover arguments in the Supreme Court if the cable channel could guarantee full presentation of the proceedings, without editing--and prevent excerpts of coverage by other broadcasters:[73] C-SPAN did commit to coverage of all 160 hours of oral argument each year.[74]

When Justice Potter Stewart retired, he held a press conference in which he suggested camera coverage of the High Court would be most appropriate: "Our courtroom is an open courtroom. The public and the press are there routinely, and since today television is part of the press, I have a hard time seeing why it should not be there too as long as it is not a disruptive influence."[75]

However, the High Court turned down a request for live radio coverage of arguments on the constitutionality of the Gramm-Rudman-Hollings bill in 1986. But three of the Justices--Brennan, Marshall, and Stevens--announced they would have granted the request.[76] Also in 1986, then dean of the College of Law at the Florida State University, Talbot (Sandy) D'Alemberte--a longtime supporter of courtroom cameras[77]--sent Chief Justice William Rehnquist a proposal for implementation of camera coverage under the auspices of FSU and the American Judicature Society; D'Alemberte suggested implementation of a modification of the Florida Guidelines.[78] Justice Antonin Scalia, who might represent a vote for courtroom cameras, indicated to members of the Federal

Communications Bar Association that if broadcasters would air arguments in their entirety, he would not object to cameras.[79] And Justice Brennan stated in an NPR interview in 1987, "I don't understand why two or three hundred people can sit in our courtroom when [radio and television] could expand that audience to millions."[80]

Thus, the time is ripe for a study of courtroom cameras. In September, 1988, the Judicial Conference approved an experimental program permitting use of video cameras to create the official court record of proceedings in a designated federal court.[81] In November, 1988, three of the Supreme Court Justices--Chief Justice William Rehnquist (who had promised to give the issue "sympathetic consideration") and Justices Byron White and Anthony Kennedy--witnessed a courtroom camera demonstration conducted by CBS News and 12 other media organizations.[82] In February, 1989, the Court of Military Appeals, the three-member high court in all military cases, allowed ABC News to film oral arguments in two cases involving drug testing. It was the first time a legal argument had ever been filmed in a federal courtroom.[83] Although in September, 1989, a special committee to consider the issue recommended to the Judicial Conference that the flat ban on cameras in federal courts continue, one of the five members of the committee voted to end the ban, and the committee did suggest judges should continue to monitor state court coverage with an eye to future change.[84]

Finally, other countries--including Australia, Canada, France, Israel, Italy, the Netherlands, and Spain--have experimented with courtroom cameras.[85] After more than 60 years, in 1989, even Britain considered revising its ban (part of the Criminal Justice Act of 1925, Section 41). After visiting courtrooms in New York and Florida in 1989, the members of the bar committee considering the question unanimously recommended rescinding the ban in England.[86] Evidence in the U.S. also points to a reconsideration of the question of the "mischievous potentialities" of courtroom cameras.[87]

Hypotheses

The preceding discussion describes the development of the law regarding the use of news cameras in courtrooms, along with descriptions of the growing use of cameras in state courts since 1981 and the possibility of overturning of the ban on cameras in federal courts, particularly in the U.S. Supreme Court. The literature review (Chapter 2) will discuss in depth three areas in which speculation has been presented regarding possible effects of courtroom cameras: general history, law, and social science.

Briefly, in the area of general history, there have been frequent debates speculating on the merits of and drawbacks to camera coverage. Also, the process of news production has changed, with various news media becoming

increasingly similar in electronic means of assimilation. Thus, there has been a growing body of literature on the resultant "convergence of modes," *i.e.*, the blurring of lines between print and electronic media, and the appropriateness of continued differential treatment of newspaper and broadcast journalists in light of this technological advance.

Legal scholars have discussed the constitutional dimensions of the right of access to courtrooms as well as speculated on the possible impact of cameras on courtroom participants. As already touched upon, the case law, including the landmark Supreme Court decisions, speculates on effects of cameras and calls for empirical research.

Finally, due to the recency of most of the camera implementation, as well as to the traditional conservative approach regarding social science in the courts, there has been little gathering of empirical data regarding actual behavior of broadcast journalists employing courtroom cameras. Studies of the role of the journalist, the adversarial relationship between the press and the government, and the political aspects of televised coverage put the issue into perspective. Surveys of those involved in experimental camera coverage as well as a handful of (noncourtroom) experiments with cameras fuel the speculation.

Therefore, the question of whether broadcast journalists actually do disrupt judicial proceedings, until now only a matter of speculation, would be an important

subject of study. However, as discussed more fully in the methodology section (Chapter 3), rather than starting off with *a priori* formal hypotheses, a pioneering researcher would more appropriately select a theory-generating method of study. Field research, specifically participant observation, is one such approach.

One of the major differences between a quantitative study and one involving such methods as participant observation is the lesser emphasis on construction of formal theories and hypotheses by the field researcher. The participant observer would not approach the study with precisely-defined hypotheses to be tested but would rather alternate deduction and induction during the course of the study to continuously modify the research design.

Thus, participant observation is considered a theory-generating process. According to Earl Babbie, the author of The Practice of Social Research, "To the field researcher, the formulation of theoretical propositions, the observation of empirical events, and the evaluation of theory are typically all part of the same ongoing process."[88]

Moreover, Clifford Christians and James Carey, describing "The Logic and Aims of Qualitative Research" in Research Methods in Mass Communication, state it is not necessary for qualitative social science research to be so closely modeled on the hard sciences as quantitative social science research may be. The contribution of the qualitative

researcher may be in adding to dialogue rather than in theoretical generalizations.[89]

Thus, rather than stating formal hypotheses, the appropriate method in this case study involves setting out research questions. Analysis of the issues studied should yield data eventually leading to theoretical propositions, the basis for more formal quantitative research in the future.

Accordingly, four questions regarding courtroom cameras were asked in advance of the study.

> Q1: How closely do broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials?

Broadcast journalists refer to reporters, photographers, producers, or other employees of broadcast stations (both radio and television) assigned to present news coverage of trials.

State guidelines are the rules such as those included in the Standards of Conduct and Technology Governing Electronic Media and Still Photography Coverage of Judicial Proceedings, codified in the Florida Rules as Code of Judicial Conduct 3A(7) and hereafter called "Guidelines." (See Appendix A.)

Criminal Trials refer to trials of defendants indicted on such charges as murder or aggravated assault (excluding sexual battery and lewd assaults) or other felonious charges, limited to such cases heard in the judicial circuit studied

during the period of observation (and excluding subsequent related appellate court action).

Q2: What impact do the guidelines have on coverage?

Impact refers to effect on methods of gathering news and broadcast presentation of courtroom coverage, as may be apparent to the observer in the courtroom, as may be described by media personnel and trial participants, and as may be evident in the work product of the broadcast journalists covering the trial.

Q3: Do broadcast journalists present undistorted coverage of criminal trial proceedings?

Undistorted coverage refers to a high degree of correspondence between events (as perceived by the researcher, described by print journalists, and evaluated by trial participants) with the work product of the broadcast journalists covering the same criminal trial (taking into account assumed stylistic differences).

Q4: Do broadcast journalists observably disrupt the judicial process at the trial court level?

Observably disrupt the judicial process refers to incidents which might be noted by the researcher or by members of the print media and/or any trial participants regarding behavior of broadcast journalists. It can also refer to formal motions for and/or possible granting of mistrial due to behavior of broadcast journalists during the period of observation.

In the following chapter, a review of literature related to this study will be presented. Chapter 3 will include a description of the methodology employed, while the results and conclusions will be presented in Chapters 4 and 5, respectively.

Notes

[1]*U.S. v. Burr*, 25 Fed. Cas. 49 No. 14692g, 1807. For general discussion of basic Free Press/Fair Trial issues, see, *e.g.*, Henry Abraham, "Press Freedom and Fair Trial and Prior Restraint," in Freedom and the Court: Civil Rights and Liberties in the United States, 4th ed. (New York: Oxford University Press, 1982), 160-162; Jerome Barron & C. Thomas Dienes, "Free Press and Fair Trial," in Handbook of Free Speech and Free Press (Boston: Little, Brown & Co., 1979), 531-608; T. Barton Carter, Marc Franklin, & Jay Wright, "Restrictions on Cameras and Other Equipment," in The First Amendment and the Fifth Estate (Mineola, NY: Foundation Press, 1986), 551-557; Marc Franklin, "Discrimination Among Media," in Cases and Materials on Mass Media Law, 3rd ed. (Mineola, NY: Foundation Press, 1987, 639-645; Warren Freedman, Press & Media Access to the Criminal Courtroom (New York: Quorum Books, 1988), 41-68; Donald Gillmor & Jerome Barron, "Access to the Judicial Process: Free Press and Fair Trial," in Mass Communication Law: Cases and Comment, 4th ed. (St. Paul: West Publishing Co., 1984), 485-557; Yale Kamisar, Wayne LaFave, & Jerold Israel, "Trial by Newspaper--and Television," in Modern Criminal Procedure, 6th ed. (St. Paul: West Publishing, 1986), 1298-1331; Kent Middleton and Bill F. Chamberlin, "The Media and the Judiciary," in The Law of Public Communication (New York: Longman, 1988), 385-434; Harold Nelson & Dwight Teeter, "Publicity During Trial: Cameras in the Courtroom," in Law of Mass Communications, 4th ed. (Mineola, NY: Foundation Press, 1982), 432-444; Wayne Overbeck & Rick Pullen, "Fair Trial/Free Press Conflicts," in Major Principles of Media Law, 2d ed. (New York: Holt, Rinehart & Winston, 1985), 176-200; Don Pember, "Cameras in the Courtroom," in Mass Media Law, 4th ed. (Dubuque: Wm. C. Brown, 1987), 401-405. For specific overviews, see, *e.g.*, American Bar Association, The Rights of Fair Trial and Free Press (Chicago, 1981); American Society of Newspaper Editors/ American Newspaper Publishers Association, Free Press and Fair Trial (Washington, DC, 1982); Chilton Bush, ed., Free Press and Fair Trial: Some Dimensions of the Problem (Athens: University of Georgia Press, 1970); Alfred Friendly & Ronald

Goldfarb, Crime and Publicity: The Impact of News on the Administration of Justice (New York: Vintage Books, 1967); J. Edward Gerald, News of Crime: Court and Press in Conflict (Westport, CT: Greenwood Press, 1983); Donald Gillmor, Free Press and Fair Trial (Washington, DC: Public Affairs Press, 1966); Peter Kane, Murder, Courts and the Press: Issues in Free Press/Fair Trial (Carbondale, IL: Southern Illinois University Press, 1986); John Lofton, Justice and the Press (Boston: Beacon Press, 1966); Paul Reardon & Clifton Daniel, Fair Trial and Free Press (Washington, DC: American Enterprises Institute for Public Policy Research, 1968).

[2]Lofton, *Ibid.*

[3]Friendly and Goldfarb.

[4]See, *e.g.*, *Palm Beach Newspapers v. Burk*, 504 So. 2d 378 (1987); *Florida Freedom Newspapers v. McCrary*, 520 So. 2d 32 (1988).

[5]*Seattle Times v. Rinehart*, 467 U.S. 20, 1984.

[6]See, *e.g.*, Diane Kightligner, "Judges Fight Trial Publicity: Open the Courtroom But Close Participants' Mouths," Association for Education in Journalism and Mass Communication, Portland OR, July 1988.

[7]For history of the ABA, including canons, see, *e.g.*, American Bar Association, ABA Project on Minimum Standards for Criminal Justice (New York: Institute of Judicial Administration, 1968); Edson Sunderland, History of the American Bar Association and Its Work (Ann Arbor: R. Heber Smith, 1953); Wayne Thode, Reporter's Notes to Code of Judicial Conduct (Chicago, 1973). For discussion of typical state standards, see, *e.g.*, Special Committee on Radio, Television, and the Administration of Justice of the Association of the Bar of the City of New York, Radio, Television, and the Administration of Justice (New York: Columbia University Press, 1965), and Freedom of the Press and Fair Trial (1967). For revisionist history of Canon 35, see, *e.g.*, Susanna Barber, Chapter Two, "A History of Cameras in the Courtroom: A Social Scientific Evaluation," Ph.D. dissertation, Bowling Green State University, 1981; Joseph Costa, "Cameras in Courtrooms: A Position Paper," Muncie, IN, 1980; Richard Kielbowicz, "The Making of Canon 35: A Blow to Press-Bar Cooperation," Association for Education in Journalism and Mass Communication, Houston, 1979; and "The Story Behind the Adoption of the Ban on Courtroom Cameras," Judicature 63:1 (June-July 1979):14-23. Also, S.L. Alexander, "Curious History: The ABA Code of Judicial Ethics

Canon 35," Association for Education in Journalism and Mass Communication, Portland, OR, 1988.

[8]*New Jersey v. Hauptmann*, 115 N.J.L. 412, 180 A. 809, *cert. denied*, 296 U.S. 649 (1935).

[9]Discussion here based on accounts of the trial in Alexander, Barber, Costa, & Kielbowicz; and Oscar Hallam, "Some Object Lessons on Publicity in Criminal Trials," Minnesota Law Review 24:4 (March 1940):453-477, and Appendix: "Report of Special Committee on Publicity in Criminal Trials" (1935):477-508.

[10]Kielbowicz ("Story," 19) points out that the cameras could run without the judge's knowledge, which seems to contradict traditional speculation that film equipment 50 years ago was too crude to allow cameras in courts without distraction.

[11]Throughout the 1920s, cameras were allowed in some courtrooms and banned in others. For example, Judge J. Raultson allowed them at the "monkey trial." (*Scopes v. Tennessee*, 152 Tenn. 424, 1925); Judge Eugene O'Dunne prohibited them and cited photographers who defied his orders for contempt at a murder trial in Baltimore (*Ex parte sturm*, 152 Md. 114, 136 A. 312, Ct. App. 1927): "The liberty of the press does not include the privilege of taking advantage of the incarceration of a person accused of crime to photograph his face and figure against his will," at 314.) The ABA Ethics Committee recommended condemnation of broadcasting in 1932 (Formal Opinion 67, 57 ABA Reports, 147). However, the practice continued: e.*g.*, a Chicago traffic court judge, upon finding 90% of tickets were "fixed," began broadcasting proceedings in 1934. See Mitchell Dawson, "Broadcast Trials? Yes," The Lawyer, March 1938, 8-10.

[12]Costa.

[13]Kielbowicz.

[14]Author's interview with Ethel Stockton, Ocala, FL (July 31, 1989).

[15]Barber, 11-12.

[16]Hallam, 493-494. A sidelight reflective of the times is the agreement of all the gentlemen on the Committee of the need to show concern for certain trial participants: "Women and children whose presence at a trial is compelled are often humiliated by the thought that they are accidentally associated with the sordid details of a criminal trial. It

seems an unjustifiable addition to their distress that they should be photographed against their will, pictured in the Press, and their personal appearance and clothes made the subject of gossiping comment."

[17]62 ABA Reports, 1937, 860.

[18]See Christopher Sterling and John Kittross, Stay Tuned: A Concise History of American Broadcasting (Belmont, CA: Wadsworth, 1978), 122-123. Also Broadcasting, specifically "UP and INS May Sell Radio News," April 15, 1935, 11; "Publishers Liberalize Press-Radio Plan," May 1, 1935, 7; "Rival News Services Acquire More Clients at NAB Session," July 15, 1935, 15; "Pirating of Press Service News Adjudged Unfair Competition," Jan. 1, 1936, 12; "Exclusion of Press Services From Radio to be Proposed at Publishers Session," Feb. 15, 1936, 16; "Press Drops Cudgel, Ends Radio Feud," May 1, 1936, 9; "News 'Piracy,'" Jan. 1, 1937, 44.

[19]61 ABA Reports, 1936, 801.

[20]62 ABA Reports, 1937, 852.

[21]*Ibid*, 1134-1135.

[22]"The Case of the Controversial Canon," ABA Journal May 1962, 431.

[23]83 ABA Reports, 1958, 660.

[24]See ABA: Opinions of the Committee on Professional Ethics and Grievances, Chicago, 1967; Standing Committee on Professional Ethics: Informal Opinions, Vols. I & II, Chicago, 1969; Standing Committee on Ethics and Professional Responsibility: Formal and Informal Ethics Opinions, Chicago, 1985; Recent Ethics Opinions, 1985.

[25]77 ABA Reports, 1952, 607-611.

[26]Frank White, "Cameras in the Courtroom: A U.S. Survey," Journalism Monographs 60 (April 1979) 3.

[27]*Marshall v. U.S.*, 360 U.S. 310 (1959); *Irvin v. Dowd*, 366 U.S. 717 (1961); *Rideau v. Louisiana*, 373 U.S. 723 (1963); *Estes v. Texas*, 381 U.S. 532 (1965); *Sheppard v. Maxwell*, 384 U.S. 333 (1966). See Kent Middleton and Bill F. Chamberlin, The Law of Public Communication (New York: Longman, 1988), 394.

[28]See also *Shepherd v. Florida*, 341 U.S. 50; 71 S. Ct. 549 (1951), in which a rape conviction was overturned on

grounds "prejudicial influences outside the courtroom . . . were brought to bear on this jury with such force that the conclusion is inescapable that these defendants were prejudged as guilty and the trial was but a legal gesture to register a verdict already dictated by the press and the public opinion which it generates" (at 51).

[29]Broadcaster Joseph Brechner wrote a response to the Reardon Report in which he claimed the media was a scapegoat. "News Media & the Courts," FoI Report No. 004, Columbia, MO, June 1967.

[30]107 ABA Reports, 1982, 729. The 1984 Lawyers Manual on Professional Conduct (Chicago) presents the 1982 revision and is quoted here.

[31]A Statement from the Central Florida Chapter SDX/SPJ, In Re Case No. 46835," Orlando, 1978.

[32]*In Re Petition of Post-Newsweek Stations*, 370 So. 2d 764 (1979).

[33]*Zamora v. Fla.*, 372 So. 2d 472 (1979). See also *Zamora v. CBS, ABC, NBC*, 480 F. Supp. 199 (1979): complaint against the TV networks for negligence dismissed on First Amendment grounds: "The importance of the First Amendment to our freedoms as a whole cannot be overemphasized" (at 203).

[34]See, *e.g.*, Martin Bass, "Cameras in the Courtroom: The Florida Experience," Television Quarterly 17:2 (Summer 1980):13-17; Raymond Buchanan, Bert Pryor, Milan Meske, & David Strawn, "The Florida Experiment," Trial 15:4 (April 1979):34-36; "Courtroom Cameras Face Crucial Test," Editor & Publisher, October 8, 1977, 11; R. Stephen Craig, "Cameras in Courtrooms in Florida," Journalism Quarterly 56 (1979): 703-710; "Florida Trial of 'TV Addict' Goes on the Air," Broadcasting, October 3, 1977, 31; Terry Knopf, "The State of Florida v. Ronny Zamora: Camera Coverage on Trial," The Quill 65:10 (1977):21-23+; Judith Kreeger, "Cameras in the Courtroom," The Florida Bar Journal 52:6 (1978):450-52; "Valid Judgment," Broadcasting, October 3, 1977, 82. However, John Hanchette points out that at one point the jurors did ask the judge if they could see themselves on television; the judge denied the request. ("Courtroom is Laboratory for Photography Experiment," Gannetteer, December 1977, 14). See also, "TV on Trial," a two-hour documentary aired on PBS May 23, 1978. For a recent update on the Zamora trial, see Donna Gehrke, "Trial Over But Ordeal Continues: TV Intoxication Murder Case Still Haunts Principles," Miami Herald, 3 December 1989, 1 G+.

[35]For coverage of the case, see, *e.g.*, Jean Chance, "Cameras in Court: Is Presence Prejudicial?" Florida Freedom of Information Clearing House Newsletter, 4:8 (September-October 1980) 5; "A David Among Goliaths on the Chandler Case," The Quill, September 1980, 9.

[36]See, *e.g.*, Norman Davis, "Courtroom Television on Trial: It's Here, It Works," Television Quarterly 18:3 (1981) 85-86.

[37]*Herman v. Florida*, (77-1236, 1978); 402 So. 2d 610 (1981).

[38]*Bundy v. Florida*, 362 So. 2d 1050 (Fla. 1978). For press coverage, see, *e.g.*, "The Cameras Were Rolling at Murder Trial in Florida," The Quill 67:8 (September 1979):7; "Defendant 'Stars' in Televised Trial," Editor & Publisher, August 18, 1979, 54; "Proof of Performance," Broadcasting, July 23, 1979, 74.

[39]See Note 27.

[40]It should be noted that most contempt trials are on the state trial court level and thus would remain unreported. Moreover, the prime supplementary data base--Media Law Reporter--relies on self-reported cases, so the lack of contempt citations might not accurately reflect the situation.

[41]"Summary of TV Cameras in the State Courts," November 22, 1989, Williamsburg, VA: National Center for State Courts; "Five States, DC Ban Cameras From Courtrooms," Society of Professional Journalists/Sigma Delta Chi Freedom of Information Report 1988-89, Washington, DC, 1989, 3-5.

[42]See, *e.g.*, "Audio-Visual Coverage on Trial in States," The News Media & the Law 13:1 (Winter 1988):48-50; "Cameras Barred From New York, Alaska Murder Trials Despite Coverage Rules," The News Media & the Law 13:2 (Spring 1988): 46-48; "Cameras Put Followers of Steinberg Case in Courtroom," Broadcasting, December 18, 1988, 65-66; David Friedman, "Court of Public Opinion," Newsday, 6 December 1988, II:5; "Gauging Effect of TV Trials," Newsday, 29 January 1989, 5; D. Guttenplan, "Hottest Ticket in Town is to Court," Newsday, 6 December 1988, 31; Kirk Johnson, "New York Courts Allowing Cameras for First Time in 50 Years," New York Times, 18 December 1987, 16 Y; David Kaplan, "TV View: The Camera is Proving Its Case in the Courtroom," New York Times, 18 December 1988, II:37; "Keep the Justice Windows Open," New York Times, 28 March 1989, 22; "Light from Courtroom Cameras," New York Times, 6 December 1988, 18 Y; Sam Roberts,

"TV in the Court: Titillation or Education?, New York Times, 27 November 1987, B:1; Albert Scardino, "Court TV is a Fixture Even as New York is Deciding," New York Times, 22 January 1989, 7 E; Patricia Volk, "The Steinberg Trial: Scenes from a Tragedy," New York Times Magazine, January 15, 1989, 21-25. Also, in 1988-89, a syndicated television program, "On Trial," presented condensed coverage of actual trials from states which allow cameras. See Kevin Goldman, "Courtrooms 'On Trial,'" Newsday, 4 April 1988; Richard Mahler, "'On Trial' Raises Questions of Cameras in Courtrooms," Electronic Media, January 1989, 96+; Richard Zoglin, "A Walk on the Seamy Side: New Tabloid Shows Are Thriving on Sex & Violent Crime," Time, October 31, 1988, 78.

[43]FED R. CRIM. P. 53.

[44]See, *e.g.*, Richard Lindsey, "An Assessment of the Use of Cameras in State and Federal Courts," Georgia Law Review 18:3 (Spring 1984):389-424; and Diane Kiesel, "Will There Ever Be Cameras in the Federal Courtrooms?" Communications Lawyer 1:4 (1983):1+.

[45]Elder Witt, Congressional Quarterly's Guide to the U.S. Supreme Court, 1990, Washington, DC, 713. For how it used to be, see David Grey, The Supreme Court and The News Media (Evanston, IL: Northwestern University Press, 1968).

[46]David O'Brien, Storm Center: The Supreme Court in American Politics (New York: W.W. Norton, 1986), 82.

[47]Richard Reeves, "The Supreme Court vs. the Press," TV Guide, December 1, 1979, 8.

[48]"The Supreme Court Beat: How Television Covers the U.S. Supreme Court," Judicature 67:1 (June-July 1983) 1.

[49]*Ibid.*, 8.

[50]"Lifting the Shroud: News Media Portrayal of the U.S. Supreme Court," Communications and the Law 9 (October 1987):43.

[51]*Ibid.*, 44-45.

[52]Congressional Quarterly, 712.

[53]David Paletz & Robert Entman, "The Supreme Court," in Media, Power, Politics (New York: The Free Press, 1981), 101.

[54]Congressional Quarterly, 713. However, in this revised edition, Elder Witt points out the Court has taken

some steps to make it easier on the press, including use of headnotes on decisions, making available a preview of Supreme Court cases (published by the ABA and the ANPA) and attempting to limit the number of decisions handed down in a given day (747).

[55]*Ibid.*, 737. According to former public information officer for the Supreme Court Barrett McGurn, despite efforts to improve, "The Court's order list is impossible for an unprepared reporter to understand." ("Public Information at the United States Supreme Court," American Bar Association Journal 69 (January 1983):42.)

[56]David O'Brien.

[57]Ethan Katsh, 11.

[58]Tim O'Brien, "Yes, but . . . ," Judicature 67:1 (June-July 1983):12.

[59]The Brethren: Inside the Supreme Court (New York: Simon & Schuster, 1979).

[60]Congressional Quarterly, 715 & 749.

[61]William Rivers, "Justice Takes the Veil," The Quill 70:6 (June 1982):33.

[62]Cited by Katsh, "Why We're Not Getting the Full Story on the Supreme Court," TV Guide, March 3, 1984, 9.

[63]Richard Davis, 47.

[64]*Ibid.*, 46.

[65]Reported by Associated Press, "Supreme Court Justice Blackmun to Discuss His Views on 'Superior Court,'" Gainesville Sun, January, 1987.

[66]"Brennan Says He Doesn't Think Rehnquist is Opposed to Electronic Coverage of Supreme Court Proceedings," Radio-Television News Directors Association Intercom, February 1987, 1.

[67]"This Honorable Court," (Press Release), WETA-TV, Washington, DC, 1988. See also Tony Mauro, "Clearer Signals? TV Milestone: Justices at Work & Play," Legal Times, 18 January 1988, 18.

[68]*U.S. v. Hastings*, 695 F.2d 1278 (11th Cir.); *reh'g en banc denied*, 704 F.2d 559 (1983). For news coverage of the issue, see, *e.g.*, "Judge Strikes Blow in TV Trial Coverage," Broadcasting, December 6, 1982, 69; "Judicial Conference Blocks Broadcast Media Access to Federal Courts," Broadcasting, September 24, 1984, 36; Thomas Julin, "Federal Electronic Media Ban Challenged," Florida Freedom of Information Clearing House Newsletter, 7:4 (May 1983):4; "Supreme Court Declines to Review Cameras in Court Case," Broadcasting, May 23, 1983, 38; "U.S. Judicial Conference Votes Overwhelmingly to Continue Ban Against Television and Radio Coverage of Federal Court Proceedings," SNPA Bulletin, October 17, 1984.

[69]For news coverage of the case, see, *e.g.*, "Judge Denies CNN Request to Televise CBS/Westmoreland Libel Trial," Broadcasting, September 24, 1984, 80.

[70]Frank White, 47.

[71]"Press at the Bench," Broadcasting, April 14, 1986, 150.

[72]*Ibid.*

[73]"All or Nothing at All," Broadcasting, April 14, 1986, 204; Gilbert Cranberg, "Warren Burger's Flimsy Case," Columbia Journalism Review, July-August 1986, 19-20.

[74]Lamb, Brian, "TV: Making Democracy Come Alive," USA Today, 28 June 1988, 10 A.

[75]"Justice Stewart Retires," American Bar Association Journal 67 (August 1981):954.

[76]"High Court Rejects Radio Coverage," Radio Television News Directors Association Bulletin, May 1986, 1. See also, Susan Lamontagne, "Cameras in the Supreme Court?" C-SPAN Update, January 11, 1986, 1+; "Supreme Court Still Says No, But Some Justices Favor Broadcast Coverage," Broadcasting, April 28, 1986, 65. (Senator Jeremiah Denton (R-AL), who proposed federal courtroom camera guidelines, was defeated by Richard C. Shelby in 1986.); "No Cameras in Burger's Court," Broadcasting, November 19, 1984, 71; and Steve Caminis, "Analysis: Miami Herald Interview with U.S. Supreme Court Chief Justice Warren Burger," Radio-Television News Directors Association Communicator, July 1985, 149-150.

[77]See, for example, D'Alemberte, "Cameras in the Courtroom," Litigation (Fall 1982) 20-23; "Let the Sunshine In," in Mass Media and the Supreme Court: The Legacy of the

Warren Years, ed. Kenneth Devol, 2d ed. (New York: Hastings House, 1976), 433-436. (Dean D'Alemberte was counsel for Post-Newsweek in 1979; he returned to private practice from FSU in 1989.)

[78]Letter from Dean D'Alemberte to Justice Rehnquist, September 30, 1986.

[79]"Supreme Court May Allow Cameras," National Newspaper Publishers Association News Media Update, May 25, 1987, 3. However, the newest justice, Anthony Kennedy, reportedly said he opposes cameras in part because a sketch artist once disrupted his courtroom by dropping pencils. See Tony Mauro, "Throw Doors Open, Let Public In," USA Today, 28 June 1988, 10 A. See also, Charles Firestone, "It's Time to Open the Supreme Court to Cameras," Broadcasting, October 3, 1988, 23; James Kilpatrick, "Televising the High Court? Of Course!" (syndicated column), Tallahassee Democrat, 26 November 1988, 11 A.

[80]"Brennan Says."

[81]Some Federal Court Video-Taping Approved," Florida Press Association Bulletin, October 1988, 6-7; "Official Cameras in U.S. Courts?" The News Media & the Law 12:4 (Fall 1988):52-53.

[82]"Cameras in the Supreme Court: A Dry Run for the Justices," Broadcasting, November 28, 1988, 57-58; "Decision Time," Broadcasting, December 5, 1988, 98; Richard Kleeman, "Is the High Court Still Camera Shy?" The Quill 77:1 (January 1989):8-9; "3 Justices Show Interest in Camera Demonstration," The News Media and the Law 13:1 (Winter 1989):23-24; "Three Supreme Court Justices Watch Electronic Coverage Demo," Radio Television News Directors Association Intercom, December 1988, 4; "TV and the High Court," New York Times, 22 November 1988, 10.

[83]"A Lens in the Door," New York Times, 28 February 1989, 12 Y; "Military Court Allows Cameras in Courtroom," (AP) Gainesville Sun, 26 February 1989; "Military Court of Appeals Lets ABC Tape Argument," The News Media & the Law 13:2 (Spring 1989):38-39.

[84]"Bartlett: High Court Perpetuates 'Medieval Atmosphere of Mystery,'" Radio Television News Directors Association Intercom, November 3, 1989, 1+; Lyle Denniston, "Judges, Jurors, & Videotape," Washington Journalism Review 11:10 (December 1989):9; "Judges Keep Court Clear of Cameras," (AP) Gainesville Sun, 22 September 1989, 4 A.

[85]See, *e.g.*, Jonathan Caplan, "Court in the Eye of the Camera," Times (London), 23 May 1989, 34.

[86]*Ibid.* See also, *e.g.*, "Electronic Courtroom Coverage to be Studied in Great Britain," Radio-Television News Directors Association Intercom, August 1988, 1; Richard Evans, "Bar Committee Sees No Threat to Justice From Cameras: TV and Radio Should Broadcast Court Cases, Say Lawyers," Times (London) 23 May 1989, 6; Valerie Grove, "Out to Open a Window on the Law," Times (London), 28 May 1989, B 5; Robert Rice, "Bar Wants Courts to be Televised," Financial Times (London), 23 May 1989, 11; Terence Shaw, "Allow the Courts to be Televised, Says Bar Council," Daily Telegraph (London), 23 May 1989, 3.

[87]See, *e.g.*, S.L. Alexander, "Courtroom Cameras: Florida at Center Stage," The Brechner Report, 13:5 (May 1989):4.

[88]Earl Babbie, "Field Research," in The Practice of Social Research, 4th ed. (Belmont, CA: Wadsworth, 1986) 254.

[89]Clifford Christians & James Carey, ed. Guido Stempel & Bruce Westley (Englewood Cliffs, NJ: Prentice Hall, 1981) 342-362.

CHAPTER 2
REVIEW OF LITERATURE

The literature on Free Press/Fair Trial issues is fairly extensive, including general commentary on the history and status of courtroom cameras as well as discussions of constitutional aspects of coverage. However, the suggestions of the need for more data by Justice White in *Estes* and Justice Burger in *Chandler* notwithstanding, a survey of the literature shows there have been few empirical studies; particularly lacking are field studies involving broadcast journalists' coverage of actual trials. Therefore, as discussed in Chapter 1, the literature review will look at three areas in which speculation has been presented regarding possible effects of courtroom cameras: general history, law, and social science. In the area of social science in particular, discussion of tangential studies of theories regarding behavior of journalists, surveys of those involved in experimental courtroom coverage, as well as description of the handful of noncourtroom experiments with cameras will put the issue into perspective.

General History

Perhaps the definitive survey of the literature is found in Susanna Barber's 1987 News Cameras in the Courtroom:

A Free Press-Fair Trial Debate.[1] An outgrowth of her 1981 doctoral dissertation[2] and much earlier writing on the subject,[3] the study is the first comprehensive look at the issue, including sections on the development of the ban, the constitutional issues involved, the research to date, and what she sees as a shift of the focus of discussion from the courtroom to the audience.[4]

ABA members Elisha Hanson in 1958[5] and Albert Blashfield in 1962,[6] each representing media interests determined to revise or revoke Canon 35, should be credited as the first two to point out the internal ABA politics involved in the 1937 ban, which Hanson described as the result of "curious history." Their work stands in contrast to Judge Oscar Hallam's nonrepentant apologia for the major role he played in the development of the ban, "Some Object Lessons on Publicity in Criminal Trials," published in 1940.[7]

Another with first-hand knowledge of the development of Canon 35, photographer Joseph Costa, who covered the Hauptmann trial, published his version of the story in 1980.[8] Costa said the traditional interpretation, that the behavior of the cameramen caused the "carnival atmosphere" which led to the ban, was a "myth" which persisted, picked up time and again by researchers. One doctoral student, Richard Kielbowicz, supported Costa's viewpoint in his writings, and, like Barber, presented the revisionist interpretation that it was the behavior of the press and the public, both inside and

outside the courtroom, which had distracted from due process--not the cameras.[9]

As the state began to experiment with courtroom coverage during the 1970s, researchers studied the developments in individual states and even individual trials. Perhaps the most comprehensive look at the events in the keynote state of Florida is R.S. Craig's 1979 "Cameras in Courtrooms in Florida."[10] Craig discussed the major studies during the experimental years, the Zamora and Hermann trials, and the bench-press guidelines for coverage. He concluded current technology allows for coverage without disruption. Martin Bass[11] and Don White[12] similarly described Florida's success with courtroom cameras.

Others in Florida discussed the issue. In addition to writing numerous stories in the popular press, reporters such as the Miami Herald's Terry Knopf wrote "The State of Florida v. Ronny Zamora: Camera Coverage on Trial" for the Society of Professional Journalists/SDX's Quill in 1977.[13] Then-Post-Newsweek News Vice President Norm Davis debated Baltimore Sun reporter Curt Matthews about the merits of courtroom cameras as implemented in Florida in the pages of the Washington Journalism Review.[14]

Others described experimental coverage in various states.[15] General discussions on courtroom cameras include those of Colorado Supreme Court Justice Edward Pringle (former chairman of the Conference of Chief Justices) in

1979; Pringle and six other state supreme court justices also discussed courtroom cameras in a one-hour documentary on PBS.[16] Witt wrote an excellent pre-*Chandler* summary.[17]

As far as the development of courtroom coverage in the states, several researchers have produced state-by-state surveys. Frank White published an extensive survey in 1979.[18] The National Center for State Courts publishes an annual in-depth survey which includes state-by-state guidelines.[19] The Radio-Television News Directors Association publishes a "Survey of Courtroom Access" every six months (and an excellent source of information is the organization's periodic "News Media Coverage of Judicial Proceedings," with references to statutes and case cites as well as various compilations),[20] while the Society of Professional Journalists publishes an annual roundup.[21] Others who have gathered surveys include James Hoyt,[22] David Graves,[23] and Lyle Denniston.[24]

Denniston has also written frequently on courtroom cameras in Quill and Washington Journalism Review.[25] Others who have written generally on the issue include Martin Bass,[26] Talbot D'Alemberte,[27] Edward Estlow,[28] and John Weisman,[29] as well as the authors of the American Society of Newspaper Editors/American Newspaper Publisher's Association "Free Press and Fair Trial."[30]

CBS newsman (and attorney) Fred Graham debated the merits of camera coverage with California Superior Court

Judge Donald Fretz.[31] Judith Lindahl, one of the defense attorneys for the widely publicized rape trial in New Bedford, Massachusetts (*Massachusetts v. Corderiro*), later wrote a critical piece in which she suggested cameras have negative impact on the judicial process: at the least, she says, a seven-second delay device on live coverage would have avoided the accidental broadcast of the victim's name as occurred in this case.[32]

Regarding the general question of cameras in federal courts, helpful background material on the issue is found in Congressional Quarterly,[33] in David O'Brien's Storm Center: The Supreme Court in American Politics,[34] and in Grey's The Supreme Court and the News Media.[35]

William L. Rivers describes why the Supreme Court is so reluctant to allow coverage,[36] as do Richard Reeves[37] and Ethan Katsh.[38] Diane Kiesel answers her question "Will There Ever Be Cameras in the Federal Courtrooms?" with a "yes, and maybe soon."[39] Mauro recently suggested a range of political reasons why the High Court remains reluctant to implement coverage, including the highly televised political demise of nominee Robert Bork in 1987 and the advanced age of many of the Justices who might be embarrassed if cameras recorded their actions. He cites the president of the Radio-Television News Directors Association, Ernie Schultz, who says, "You would think the justices would look at the evidence--that's what courts are supposed to do--and see the

reality of what the states have done, but they completely ignore it."[40] (As Lou Prato, describing the efforts of the Radio-TV News Directors Association to work with the National Judicial College, claims, "No group is more adversarial in its relationship with the news media than judges.")[41]

In addition to the discussion of the historical development of courtroom cameras, there is a small but growing body of literature on the related issue of the continued appropriateness of broadcast regulation in general as well as of the differential treatment of traditional "print" and "broadcast" media under the First Amendment--the differential which allows for restrictions on courtroom cameras despite the First Amendment. The traditional rationale for broadcast regulation has been the concept of limitation of access due to technological scarcity. However, today, due to the process referred to as "convergence of modes," there is a blurring of lines between different media, including print, broadcast, cable, teletext, and videotex.

Smith[42] points out the perplexing problem of determining whether new media should be considered as mere extensions of newspapers and thus should be unregulated, or whether it would be better to treat computer-controlled information systems differently, as sovereignty over text moves from the message creator to the message receiver.

Wicklein[43] suggests the backbone of the new communication system be treated as a common carrier, to avoid

governmental control of content as evolved in broadcasting. He cites Oettinger on the danger to First Amendment rights of a regulated press: "The fiction that newspapers are distinct from television and cable television, is just that--a fiction. If rights, First Amendment rights, either of publishers or broadcasters or of the public are abrogated in the broadcast medium . . . they will sooner or later disappear in the print media."[44]

Fowler and Brenner[45] propose that the trusteeship model of broadcast regulation be replaced by a deregulated marketplace approach. The authors point out the flaw of the scarcity rationale and suggest the legal basis for the marketplace approach, emphasizing the First Amendment rights of the broadcaster rather than those of the audience.

Finally, de Sola Pool considers the current electronic revolution as significant as the development of writing and later of printing: he says the justification for regulation of electronic media in contrast to First Amendment protections offered the print media is no longer appropriate. Regarding the specific area of courtroom cameras, de Sola Pool suggests one cause of judicial reluctance to implement the new technology: "Technical laymen, such as judges, perceive the new technology in early clumsy form, which then becomes their image of its nature, possibilities and use. This perception is an incubus on later understanding."[46]

Thus, based on an examination of the literature, the revisionists' interpretations of the development of the courtroom camera ban lead to the conclusion that at the least, the ban was politically motivated; moreover, with the development of the new technology, the flat ban against cameras in federal courtrooms may no longer be appropriate.

Law

The constitutional dimensions of the right to access might begin with a discussion of Blasi,[47] who, building on Meiklejohn,[48] suggests the First Amendment is an absolute in the coverage of issues which lead to an informed electorate, with the press to serve as a watchdog for possible government abuse.

The "Triangle of Information Theory" developed by Emerson,[49] and elaborated upon by Kuriyama,[50] further adds support to the suggestion that the camera ban, distinguishing between print and electronic media, is unconstitutional. In brief, Emerson discerned a "triangle" involving newsgathering, dissemination of news, and the right to receive news, with all three elements of the triangle under the umbrella of the First Amendment.

Following Emerson, Kuriyama's interpretation of Justice Potter Stewart's concurrence in *Houchins v. KQED* (438 U.S. 1, 1978) leads to what he calls a "First Amendment pathway to the courthouse" for electronic journalists, along with the

tools of their trade, under the newsgathering element of the triangle. According to Kuriyama, Justice Stewart implies that if the public is allowed access, the electronic media must be allowed to bring in cameras for analogous "effective access." Then, as *Branzburg v. Hayes* (408 U.S. 665, 1972) supports a newsgathering right for the press, and as *Richmond* implies parity between the public and the press, electronic media and print media, both with rights equivalent to those accorded to the general public, have equivalent rights of full access.

Regarding the second leg of the triangle, citing *U.S. v. A.P.* (326 U.S. 1, 1945), Kuriyama suggests it would likewise be "constitutional folly" to deny an electronic journalist the right to disseminate information he has recorded. Finally, regarding the third leg of the triangle, Emerson says the public has a right to receive information, and since most people today receive most of their news from the electronic media, according to Kuriyama's interpretation, the public has a right to full coverage by the electronic media.

Some of the best summaries of the law regarding courtroom cameras are to be found in case law itself. For instance, the Colorado Supreme Court, per curiam, adopted a report rejecting Canon 35 in 1956 (*In Re Hearings Concerning Canon 35 of the Canons of Judicial Ethics*, 296 P.2d 465). Citing the lack of disruption caused by extensive use of

photographic equipment, Justice Otto Moore noted he was not even aware of when equipment was being operated in his courtroom and held there was no need for the ban: "We are concerned with realities, and not conjecture" (at 468). The court also held that the educational value of courtroom coverage was crucial: "Generally only idle people pursing idle curiosity have time to visit court rooms in person. . . . That which is carried out with dignity will not become undignified because more people may be permitted to see and hear" (at 469).

Included in the Appendix to Justice Harlan's opinion in *Estes* (at 596-601) is an *amicus curiae* brief of the ABA with a complete legal history of Canon 35. Similarly, the decision in Florida's landmark *Post-Newsweek* case includes, in addition to results of surveys undertaken during the experimental period, a legal history including a state-by-state survey prepared by the National Center for State Courts and relevant material relating to the Code of Judicial Conduct (at Appendix 2). "Validity, Propriety, and Effect of Allowing or Prohibiting Media Broadcasting, Recording, or Photographing Court Proceedings," published by American Law Reports, presents a thorough background of the issue.[51]

Back in 1938, "Distinguished American Lawyer Mitchell Dawson" and British MP Robert Bernays debated the pros and cons of cameras in courts.[52] Dawson suggested that although the use of cameras might shock lawyers and judges, not only

would use extend the public's right to known, but it would also serve to "counteract the perversions of the press."[53] Bernays, however, insisted "Crime is something shameful, and it is highly dangerous to advertise criminals as if they were as interesting as Presidents or Prime Ministers or film stars or professional footballers."[54]

The author of a 1958 Iowa Note, "Television and Newsreel Coverage of a Trial,"[55] opted for retention of the ban absent a reliable standard for determining whether coverage would interfere with due process. However, the same year in Florida, Hodges and Staggs made a legal case in favor of courtroom cameras, on the grounds that the Colorado solution--in which the judge has the responsibility of assuring decorum--is the "most sensible" solution to the problem of balancing constitutional rights.[56]

In 1976, Roberts and Goodman,[57] and, in 1978, Wolf[58] presented general perspectives on courtroom cameras. In 1978, California Superior Court Judge Donald Fretz, then-chairman of the ABA Committee on Criminal Justice and the Media, called for a national clearing house on courtroom camera data.[59] The same year, Judith Kreeger, then-chairman of the Florida Bar Media Relations Committee, described the state's pilot program with courtroom cameras.[60] In Georgia, Stone and Edlin described the "demanding challenge" presented by courtroom cameras,[61] while in Kansas, Loewen insisted the press had matured enough to handle cameras in the courtroom.[62]

A thorough look at the issue was taken by federal Judge Paul Goldman of Nevada and Richard Larson in 1978 in "News Cameras in the Courtroom during *State v. Solorzano*: End to the *Estes* Mandate?"[63] Goldman had been chief judge of the district at the time of the Solorzano attempted-murder case and had authorized the videotaped coverage. After an extensive discussion of the development of Canon 35, the writers described the production details of coverage, including a diagram of equipment placement during the 35 hours of the trial. All but the jury deliberations were taped. After a year of post-production, five hours of coverage was broadcast in 1976.

The writers found that, in general, none of the "detrimental behavior modification" predicted in *Estes*, such as witness intimidation or playing to the camera, took place. The only point at which the predictions were borne out was that the trial participants, at least initially, seemed aware of the presence of the cameras. However, the writers concluded the effect was the opposite of what had been predicted in *Estes*: the presence of the cameras actually had a benign, if not beneficial, influence, acting as a "catalyst to heighten individual performances." The writers include a look at post-*Solorzano* cases in other jurisdictions where camera coverage subsequently developed (including Alabama, Washington, Georgia, and Florida) and closed with a prediction that "Traditional hostility toward the presence of

the in-court news camera will diminish as the nation's state courts become increasingly familiar with the new video technology."[64]

Tongue and Lintotte make "The Case Against Television in the Courtroom"[65] by arguing that the news media's coverage of mostly sensational trials "warps the public understanding of courtroom proceedings."[66] They suggest that it is unrealistic to expect witnesses to admit their testimony might have been different but for the cameras and that jurors may enter the courtroom remembering incorrect "facts" from earlier television hearings or trials. They conclude that courtroom cameras violate privacy of witnesses and jurors, have a negative impact on public opinion, and are an added burden on the trial judge and court administration.

At the same time, Nevas makes "The Case for Cameras in the Courtroom,"[67] arguing their presence is required by the tradition of open courts. Nevas emphasizes the need for research, primarily to see whether the effects of print coverage are any different from those of modern electronic media, research which he says should take into account the novelty of current courtroom coverage. Townend[68] similarly suggests "Cameras in the Courtroom: Let's Give Them Another Try," arguing that cameras would help the electorate access judicial candidates (the very notion of which might contribute to judicial reluctance to courtroom cameras).

Zimmerman[69] presents what she calls a "modest proposal" for the constitutional protection of courtroom cameras; as did Kuriyama,[70] Zimmerman cites Stewart's dissent in *Houchins* and suggests absolute bans cannot be justified. After describing the "parade of horribles" often associated with courtroom cameras, she suggests any controls over courtroom cameras must involve the least restrictive means possible, and thus she concludes her "modest proposal" that the High Court recognize a constitutional right of technological access.

"Television in the Courtroom Devil or Saint?" ask Tornquist and Grifall--and the answer seems to be neither.[71] Discussing the possibility of a camera experiment in Oregon, the authors suggest the court maintain control over production of the tapes and allow the tapes to become part of the court record (and this unique approach was, in fact, taken by the state in its experiment).

Naturally, the implications of the Chandler decision in 1981 were the subject of legal discussion. Ares[72] argues that the court reached the right result but failed to justify the decision in a persuasive way. Ares suggests that exclusion of television--the most "important" source of information about the courts--absent compelling reason, cannot be squared with the First Amendment, and he concludes that "[I]t is hard to see how the Court, once it directly faces the question, can hold that properly controlled television reporters do not

have the same constitutional right of access to the courts as do other news people."[73]

Beisman[74] discusses the impact of the Chandler decision and suggests television stations wishing to cover trials should petition a panel--made up of the trial judge, both attorneys, and the media representative--outlining procedures to be followed. Beisman also suggests the broadcaster sign a statement promising to maintain decorum--and, if covering a sensational criminal trial, a promise to cover a civil trial. (The last would surely be the immediate subject of a First Amendment challenge should any court employ such a restriction.)

Pequignot[75] says the Chandler decision is consistent with the Burger Court's pattern of subordinating all rights of criminal defendants (and, when they coincide, the rights of the press) to the rights of the state. Rather than the *Post-Newsweek* "qualitative difference test" to determine worthiness of coverage, Pequinot proposes a checklist of questions the court might ask to determine merits of exclusion, including how crucial the movant's testimony is to the case, whether the witness is fearful of reprisals for specific testimony, and whether the press can present a viable alternative to excluding cameras which would protect the witness from reprisals.

Tajgiman[76] suggests an analytical approach analogizing the court arguments in *Estes* and *Chandler* to the paradigm of

Herbert Packer, who contrasted a "due process model" and a "crime control model" of law enforcement. Tajgiman insists "[T]he television reporter, without his camera, cannot cover the trial proceedings with analogous comprehensiveness."[77]

A year after *Chandler*, writing about the significance of the case in removing "the cloud of *Estes*," Robert Hughes[78] pointed out that the Court in *Chandler* emphasized a lack of reliable data; Hughes urged researchers to heed the call of the Court for more research. Similarly, Jeremy Cohen[79] analyzed *Chandler* and suggested the Court's repeated invitations for more empirical research may indicate "not only a desire for fairness but an uneasiness with its current decision."

A year later, Cohen[80] again wrote on the issue; he discussed cameras in Washington and Florida and supported the *Post-Newsweek* "qualitative difference test"--*i.e.*, determination of whether cameras will have a substantial effect different from traditional coverage. Cohen says such a test must take into account both First Amendment and Sixth Amendment rights, must be practical, and must be understandable. He concludes more social science research on effects of courtroom cameras is needed.

Julin[81] discusses the 1983 request of indicted federal judge (now former judge) Alcee Hastings to allow broadcast of his trial on bribery charges (*U.S. v. Hastings*, 695 F.2d 1278); Julin was among the counsel for the 28 media

organizations who subsequently petitioned the court to extend broadcast coverage to the federal courts. Julin says absolute legislative bans are inappropriate for access questions concerning the judicial system and concludes the issue is not longer whether electronic media will be granted access to federal courts, but when. (The petition itself[82] is a wonderful compendium of information on courtroom cameras.)

Richard Lindsey presented an in-depth study, "An Assessment of the Use of Cameras in State and Federal Courts" in 1984.[83] Lindsey discusses the Constitutional implications of the issue including First and Sixth Amendment aspects of concern as well as problems with due process considerations, which he argues are caused primarily by the failure of *Chandler* to override *Estes*. As did Goldman and Larson, Lindsey includes a state-by-state survey. Lindsey suggests a strong state interest for occasional denial of access: for instance, compelling desire for confidentiality or for protection of minors involved in the juvenile justice system might override First Amendment rights of coverage. Moreover, Lindsey finds a weak First Amendment interest in indiscriminate photographing of a jury. However, Lindsey concludes that jurisdictions which condition coverage upon consent give too much power to participants to deny access and suggests the most sound policy is one allowing coverage on a case-by-case basis at the discretion of the judge.

McCall[84] also posits a procedure for determining when it is appropriate to sustain objections to the presence of cameras. McCall's approach draws on the recent line of cases establishing the defendant's right to evidence under the Sixth Amendment compulsory process clause. McCall suggests that when exclusion of cameras is requested, the court should determine whether the presence of cameras would cause a defendant to lose evidence that might be relevant, material, and vital to the defense.

In a footnote-heavy piece,[85] Riemer calls for constitutional protection against absolute bans on cameras absent a compelling government interest. Riemer says (*Kerley* and *Hastings* notwithstanding) absolute bans are not "time, place, and manner" regulations and are unconstitutional. Her suggested test for whether cameras might be excluded requires the government to show a compelling interest, narrowly drawn, before exclusion should be allowed.

Dyer and Hauserman[86] present a comprehensive look at the issue of courtroom cameras. They recommend coverage be permitted in all cases, with exceptions based on coverage of participants. Rather than the *Post-Newsweek* "qualified differential" test, they suggest mere "good cause" suffice for exclusion, with recommended exemptions for victims of rape, child abuse, and "other violent crimes" (the last the most likely cases the media would choose to televise).

Gardner[87] describes the need for uniform state guidelines for courtroom coverage and presents a model which includes automatic exemptions of camera coverage of victims of sex crimes, juveniles, and undercover agents--which is already the case in many states--as well as automatic exemptions for any witness who objects to coverage--which would be problematic in many states such as Florida. She also suggests all broadcasters would have to keep all equipment and personnel in the courtroom throughout the entire trial, which might make it impossible for all but private production companies to cover most trials. (Her suggested requirement that all broadcasters must present balanced coverage of the prosecution and defense might be found unconstitutional, particularly in light of the recent FCC abandonment of the Fairness Doctrine--assuming Congress does not reinstate it.)

Douglas P. Killian also discusses "The Propriety of Restrictive Guidelines for Cameras in the Court."[88] Killian supports the broadcasters' position that party consent should not be a precondition to coverage. Joining the bandwagon decrying the paucity of reliable empirical data, Killian says flawed methodology notwithstanding, the few studies available have failed to confirm feared negative impact of coverage on trial participants, and he concludes the time is ripe for full courtroom coverage.

Thus, although opinions differ, there is a good deal of support for the constitutionality of courtroom cameras. Moreover, with few exceptions, legal scholars support the concept of courtroom cameras, differing mostly regarding the best test for determining the details of coverage.

Social Science

The field of social science has been strangely lacking in the gathering of empirical data regarding the question of courtroom cameras. Therefore, a brief description of the literature on the values of journalists, particularly those affecting the relationship of the press and the judiciary in regard to broadcast coverage of courts, will be followed by a general discussion of the approach of social scientists to the specific question of courtroom cameras, followed by an examination of the handful of empirical studies on the subject.

Although researchers have found differences in the effect on the audience depending on the dominant source of news (print or broadcast),[89] in general those who gather, prepare, and present the news share the same basic values and attitudes. Weaver and Wilhoit[90] updated the classic Johnstone study[91] to present a picture of the typical journalist. Becker[92] reanalyzed Johnstone's data and found similar results, with the major differences between print and broadcast journalists including the increased likelihood the

broadcasters would deal with conflict since they are more likely to seek contrasting viewpoints in preparing coverage. (This would have potentially important consequences for the way a trial is presented by broadcast journalists compared to print journalists.)

Paul Weaver[93] studied differences between print and broadcast journalists and concluded broadcasters are more likely to organize "stories" with a beginning, a middle, and an end, leading to charges broadcast coverage is "simplistic." Weaver also suggested the broadcaster's personality intrudes into the story, since he cannot maintain a print journalist's impersonal narrative voice. Moreover, television's need for visuals vitiates the interpretive capabilities of the television news story and reinforces the image of television coverage as superficial and melodramatic.

Fico[94] surveyed broadcast and print reporters covering a session of the Indiana legislature and found the broadcast reporters relied slightly more on establishment sources of news. However, Fico stresses the tentative nature of his findings and suggests that sweeping generalizations about the performance of broadcast reporters may be unwarranted.

Sheldon *et al.*[95] recently completed a study of Bench-Bar-Press guidelines in Washington state. The authors surveyed members of the press, the judiciary, and the bar regarding three areas: free press, fair trial, and privacy protection for trial participants. Regarding press adherence

to the guidelines, although more than half of the broadcast journalists felt they consistently followed the guidelines, only a third of the other respondents agreed; print reporters felt they followed the guidelines 85% of the time; only 42% of the others agreed. In other words, all the respondents gave print journalists higher marks for consistency with the guidelines than they gave broadcast journalists--and none of the respondents was nearly so confident in any of the journalists as the journalists were in themselves. In the area of trial coverage accuracy and bias, more than two-thirds of the broadcast journalists felt their coverage was accurate and unbiased; only one-third of the others agreed; print reporters gave their own work high marks 90% of the time while only 38% of the others agreed. In other words, once again, all the respondents gave print journalists higher marks for accuracy and lack of bias than they gave broadcast journalists--and again, none of the respondents was nearly so positive about the journalists as the journalists were about themselves.

Weinthal and O'Keefe[96] surveyed broadcast journalists in Denver. Their findings supported a profile of broadcast journalists similar to that of print journalists, with the only differences including broadcasters' higher desire for freedom from close supervision and for excitement and variety as well as for working with congenial colleagues.

A field of study of broadcast journalists at all three network affiliates in each of six television markets in Wisconsin led Idsvoog & Hoyt[97] to conclude market size did not affect level of professionalism (measured on the McLeod & Hawley scale), and, as predicted, professional journalists perform with more skill on the job than less professional journalists.

Epstein,[98] Altheide,[99] and Gans[100] conducted expansive studies of values of broadcast journalists; presumably, broadcast journalists in courtrooms might share this set of values. For instance, Epstein spent four months at NBC, backed up with interviews and material from ABC and CBS; in all, he interviewed nearly 100 broadcast journalists. He concluded organizational imperatives of news organizations shape the news, imperatives which include the budget of the news department, the need to maintain an audience flow due to network dependence on ratings, the nationalization of news due to the network affiliate systems, and external factors such as the FCC's fairness rules and other governmental requirements.

Altheide spent four months in a network affiliate's newsroom, along with nearly a year off and on at a second and three days at a network owned-and-operated station in a third market, backed up with a colleague's research. He found that the "news perspective" of the journalist creates a "bias." Factors affecting this perspective include commercialism and

ratings, competition with other stations, and community context.

Sociologist Gans used the method of content analysis along with participant observation to study CBS Evening News, NBC Nightly News, Newsweek, and Time. Gans concluded the news is shaped by the power of official sources, the need for efficiency in organizations, and journalistic news values, particularly such "enduring values" as ethnocentrism, altruistic democracy, responsible capitalism, small-town pastoralism, individualism, and moderatism.

Bantz, McCorkle, and Baade[101] presented an analogue of the local television newsroom as a factory. They suggested the organizational consequences of this include lack of flexibility, lack of personal investment in the product, evaluation of newswork in production terms, and goal incongruence between the newsworker's job expectations and job reality.

Breed[102] had interviewed more than 120 newspapermen in an attempt to discover why they followed the publishers' policies regarding orientation of editorials and news. He had described six characteristics of what he called a system of "social control": institutional authority and sanctions, feelings of obligation and esteem for superiors, mobility aspirations, absence of conflicting group allegiance, the pleasant nature of the activity, and news as a value.

Garvey[103] later replicated Breed's work in broadcast newsrooms with similar results.

Phillips' study[104] of the differences between journalistic versus social science perspectives included unobtrusive measures and surveys as well as participant observation at a newspaper, two commercial radio stations, and a commercial TV station. Phillips concluded that the journalist's perspective was based on direct sense experience rather than on theoretical, abstract reflection.

In addition to conducting interviews, Tuchman[105] was a participant observer at a newspaper, a city hall press room, and a major market noncommercial television station. Tuchman described the routine processing of news events and explained how even "exceptional" stories were forced into routinization.

White,[106] building on the work of sociologist Kurt Lewin, had spent a week with a wire editor at a daily and had described the "gatekeeping" process by which editors made selection decisions. White questioned "Mr. Gates" on the influence of the categories of news, his personal prejudices, his concept of the audience and of the subject matter of the story on his choices. Dimmick[107] expanded on White's theory, suggesting journalists seek validation of their choices, thus leading to charges of "pack journalism."

Buckalew[108] applied gatekeeping theory to broadcasting. He first sat through the production of newscasts with 12

television news editors and found only slight variety in selection of stories, variety which he said was related to the size of the community: smaller markets were more concerned with proximity of stories, larger with timeliness. Buckalew also studied gatekeeping methods at 29 radio stations. He found seven of the stations took most of their news directly from the wire services ("rip 'n' read"), two rewrote wire copy, and the rest used the wire copy as impetus for following up stories.[109]

Harless[110] presented what he called a "quasi-replication" of the original White study, only this time in a broadcast newsroom. His gatekeeper, "Mr. Collins," seemed to show a slight bias for business and civic news, and Harless concluded the television gatekeeper was more creative than "Mr. Gates" and more medium-oriented than subjective or prejudiced.

Drew[111] suggested role expectation theory plays a part in gatekeeping. Studying three city hall beat reporters at three television stations in a medium-sized Midwest market, Drew found Reporter A based his choices on his own idea of what the audience expected in the news, Reporter B based his choices on what Breed had described as the "social control" of the newsroom, and Reporter C on his own ideas of his role as a news producer.

Finally, most recently, Wickham[112] did a content analysis of a week's newscasts at the three network

affiliates in Memphis. She suggested the role of the television reporter in the overall gatekeeping process is not as isolated as that of the newspaper reporter, and the television reporter is also more affected by technical limitations than his counterpart.

Thus, the typical journalist holds certain values and follows certain norms, some of which, such as the intrusion of the broadcast journalist's personality into his coverage of a process which holds to an ideal of objectivity and neutrality ("blind justice"), have the potential to contribute to judicial reluctance regarding cameras in court. These theoretical suggestions have been borne out by judicial response to actual broadcast coverage of courts, as evidenced by surveys of judges and judges' reports on cases, which will be discussed shortly.

First, however, brief mention of several other general issues studied by the social scientists is also appropriate to the discussion of courtroom cameras. For instance, the "mediated reality" of political news in the U.S.--from the possible unwitting bias produced by news coverage of political events to the underlying "adversary model," the assumption of varying degrees of conflict of interest between journalists and government and political figures[113]--has been described by researchers such as Lang and Lang,[114] Blumler and Gurevitch,[115] Ostroff,[116] Paletz and Entman,[117] Ranney,[118] and Rivers.[119] Members of the judiciary might assume an analogous

possible bias and adversarial relationship underlie press coverage in the courts.

The catalogue of objections to the televising of Congress, ranging from predictions of "undignified behavior" to potential political abuse, might also affect the judiciary.[120] Although canons of judicial decorum preclude public discussion of the political aspects of a judge's career, trial judges in most jurisdictions today are subject to the electorate (and the political nature of the appellate judiciary, particularly the High Court, has already been mentioned.)[121] Barber most directly refers to this possible "hidden agenda": "Judges may be worried that television exposure will make them more accountable to the public for their rulings and courtroom behavior."[122]

Thus, even a brief discussion of news values of broadcast journalists, the traditional adversarial relationship between the press and government, and the political aspects of televised coverage, puts the issue into perspective for the social scientist concerned with researching courtroom cameras.

Turning to the specific question of social science research on the topic of courtroom cameras, just prior to *Chandler*, George Gerbner wrote "Trial by Television: Are We at the Point of No Return?"[123] According to Gerbner, the social functions of television and of the courts are at cross purposes, and in the absence of conclusive research, he

suggested restriction of courtroom coverage. Gerbner said the purpose of trials is to protect the defendant, not to entertain or to educate, and he called for more research based on actual court studies.

During the experiment with cameras in Florida in 1978-78, several studies were conducted, some of which became part of the court record in *Post-Newsweek*.[124] Reports of five judges as well as results of four surveys will be briefly discussed.

Judge Paul Baker presided over the most spectacular of the cases, *Zamora v. Florida* (372 So. 2d 473, 1979; 77-25123-A, 11/30/77), covered gavel-to-gavel by Miami's WPBT (PBS). Despite the massive publicity and complex logistics necessitated by the trial, Judge Baker came out in favor of cameras. He made several recommendations for future cases, including sequestering of jurors in some case, admonishing of witnesses, and providing a separate room for the media in major cases.[125]

Judge Edward P. Cowart, Chief Justice of Florida's 11th Circuit (and later presiding judge in the trial of serial murderer Ted Bundy) joined two other judges in a report supporting the pilot program: "We think it is just another extension of the first amendment through a different medium. The disorder, disarray, and carnival atmosphere of the past trials are not here today."[126]

Justice Dorothy Pate,[127] who presided over four trials during the experiment, could find few specific ill effects; however, in her report she was generally negative toward courtroom cameras. Similarly, Judge Marvin Mounts,[128] who presided over a murder trial, said the cameras made him nervous, and his reading of Marshall McLuhan on the enormous impact of television led him to a cautious approach toward courtroom coverage.

Finally, the most negative opinion was that of Judge Thomas Sholts,[129] who had presided over the Mark Herman murder case. Sholts conceded current technology allowed for coverage without distraction, and the experiment worked out much better than he had predicted. However, Sholts objected on general grounds that use of television does not contribute to the objective of ascertaining truth and has the potential to cause burdens on the judge and extra expense as well as possible grounds for appeal.

The first of the four surveys regarding courtroom cameras in Florida was conducted by the Office of the State Court Administrator.[130] A total of 2,660 jurors, witnesses, attorneys, and court personnel involved in cases of courtroom coverage were questioned, with a 62% response rate. Although methodological flaws led to conclusions considered statistically insignificant, the court administrator found the survey in general indicated little or no effect of courtroom cameras.

A second survey was conducted by Judge Arthur Franza, then-Chairman of the Public Information Press Relations Committee of the Florida Circuit Judges.[131] Judge Franza polled the 286 circuit judges (with a 54% response rate). Most of the judges either favored cameras or were neutral toward courtroom cameras.

A third survey was conducted by Judge David Strawn and three researchers from Florida Technological University.[132] Participants in five of the trials which took place during the experiment were surveyed, including two of the presiding judges. Questionnaires were then sent to the 286 state circuit judges (with a 45% return rate) and 181 county judges (with a 56% return rate). The results of the survey indicated that although judges were prejudiced against cameras in general, once they had some actual experience with cameras in their own courtrooms, they tended to become more inclined to favor courtroom cameras.

A fourth brief study was conducted by Jean Chance at the University of Florida.[133] Her 18 questions went to news directors, managing editors, and 20 presiding circuit judges (with a 60% return rate for the judges before the experiment, 20% return rate a year later). Although the response rate was too low for significant conclusions, the judges who returned the second questionnaire tended to be those who had negative feelings toward courtroom cameras.

The Justices in *Estes* and *Chandler* and writers such as Hughes, Cohen, and Gerbner lamented the lack of empirical research, particularly case studies of media behavior in actual courtrooms. Indeed, few such field studies turn up in the literature survey.

Barber,[134] who has gathered a definitive bibliography on the subject of courtroom cameras, could find only 19 direct studies of the question, with 15 of these case studies and/or surveys commissioned by various bench/bar committees or state courts (such as those Florida studies discussed) studying the possibility of implementation of courtroom cameras. (The sixteenth study is the aforementioned case study by Goldman and Larson.)[135] Only three empirical studies were discussed.

The first, Hoyt's 1979 experiment,[136] involved 36 volunteers in a media class in Madison, Wisconsin. The students were shown a film and questioned afterward: half were in a room in which a video cameraman very obviously was taping their answers; half were in a room in which the camera was not actually in sight, although they were told it was there. Hoyt reported no significant difference in respondents' verbal behavior and concluded cameras might actually lead to fairer trials with witnesses giving more complete answers.

The second study, Netteburg's 1980 survey,[137] involved 300 people selected at random from telephone directories in two Wisconsin cities. Netteburg asked respondents about a

recently-televised trial in which the defendant had been tried for murder and arson and had been found guilty of the former, innocent of the latter. According to Netteburg, although many subjects recognized the defendant's name--and mistakenly thought she had been convicted of both crimes--most were not aware of either her name or of the outcome of the case. Netteburg concluded that the data contradict the proposition that television can destroy an accused's case.

The final study cited by Barber is Short's 1981 survey and experiment.[138] Part of this study involved observer evaluations of participant behavior in experiment versus control conditions; another part of the study gathered data via survey questionnaires. Short found little negative impact of courtroom cameras, with little negative disposition toward the cameras, and what there was, primarily among defense attorneys. The study also suggested other potential sources of distraction--including conventional media, court personnel, trial participants, and audience--were approximately equal to the cameras in causing distraction.

After a detailed analysis of the Short study, along with the earlier research, Barber concluded

> It seems fairly striking that 19 pieces of independent research, conducted in 11 states over a span of over 8 years, reached similar conclusions about the relative lack of behavioral prejudice caused by news cameras in courtrooms. . . . This is not to say that many trial participants do not have mixed or negative *attitudes* toward courtroom coverage, only that the bulk of empirical research conducted to date shows little correlation between the presence of cameras at trials

> and perceived prejudicial behavior on the part of jurors, witnesses, judges, or attorneys.[139]

Several other studies, although not included in Barber's survey, seem on point with the present discussion. For instance, Einsiedel[140] did not actually attend the murder trial she studied, but she did interview some participants after the trial, mostly by telephone. She reported a generally positive response to courtroom coverage with unobtrusive cameras.

Underwritten in part by the Scripps-Howard Foundation, Lancaster[141] made a comparative study of two trials for the same $6 million robbery and murder: the trial of one defendant involved courtroom coverage, the other did not. Lancaster found the public claimed to learn more about the trials and the criminal justice system in general when cameras were allowed, and the majority of those questioned--including the jurors--did not believe the cameras jeopardized the defendant's right to a fair trial. Lancaster found it was the "celebrity factor" of the presence of television reporters rather than the cameras which signalled participants that the trial rated the attention of the media.

Three recent studies also involved experimental (non-courtroom) studies of the impact of courtroom cameras. Pasternack[142] asked whether, if juror's identities became known through televising of trials, they would become more susceptible to community pressure to convict. In a

laboratory setting, he handed subjects news stories (some of which included an extra paragraph expressing community interest in convicting criminals), showed them a videotape, and had them fill out a questionnaire. He found subjects exposed to more pressure (*i.e.*, reading the doctored story) were more likely to deliver a guilty verdict, and he recommended states might prohibit televising of the jury. However, Pasternack himself points out some of the obvious limitations of the study--the artificiality of the experiment, the subject awareness of the project, the expectation of the test's possibly leading to more diligent viewing of the tape, the lack of external validity. Even more significant, however, is an additional limitation that might be noted by a critic: the leap Pasternack makes in assuming, first, that jurors are "unknown" if untelevised (an actual trial takes place in an open courtroom; if a TV camera is present, it is likely print journalists will also be covering the trial, and with all eyes on the jurors, particularly during *voir dire*, they are hardly "unknown"). And there is a second leap in logic in assuming that exposure of jurors' identities is the most relevant factor in making a juror feel more subject to community pressure to convict. Finally, the responses of college students, many of whom do not register to vote and would not be called to jury duty in many states, may not be representative of an actual jury pool.

A second study, by Paddon,[143] described the differences between trial coverage using video versus those using sketches from the courtroom. Building on information processing theory, this study involved exposing subjects to one of four treatments in a half-hour newscast followed by a questionnaire. Paddon found cameras appeared to enhance a viewer's information about the trial but led to no attitude changes which might threaten justice. She points out some of the obvious limitations of the study--for instance, the artificiality of the experimental situation where one brief exposure to news of a crime is not representative of the real world, where newspaper coverage would reinforce exposure.

Finally, Kassin[144] showed 51 "mock jurors" a videotape of a civil trial either in the presence of or absence of a camera; they then were questioned about the trial. He concluded the impact of cameras at a trial would be minimal, could be mitigated with pretrial warnings, and generally would have no effect on the outcome of a trial. Major limitations of the study which Kassin points out include its lack of concern with the indirect effects of cameras on the jury compared with those of print coverage, as well as the fact that different types of cases might affect the degree of impact of cameras.

Rimmer[145] recently presented a study of the status of research regarding courtroom cameras. He suggested that from a legal perspective, it appears there is little support for a

ban on electronic media access, and from a social science perspective, evidence suggests access does not appear to produce the effects its critics assert. However, he notes that much of the evidence available has not really focused on whether access actually causes the effects claimed for it. Rimmer cites Boggs' review[146] of 72 empirically based studies of state court experience with television coverage which found in 20 of the studies basic methodological flaws which mar the reliability and validity of the findings. In short, Rimmer concludes, studies of effects attributed to electronic media access to the court were often "generalized beyond their data."

Thus, it is apparent that, as Rimmer says, "[T]here is a dearth of valid, reliable, and generalizable social science evidence" regarding courtroom cameras.[147] Rimmer suggests, first, there is a need to gain access to actual courtrooms so data can be gathered in real time/space conditions rather than in courtroom simulations; second, concerns about the longer term impact of electronic media access suggest research designs which measure impact over time. Among the subjects Rimmer suggests for further research include replication of case studies and surveys with better controls; a study of the differences between effects associated with routine trials and sensational trials; examination of impact of cameras inside the courtroom vis-a-vis the courthouse environs; and the nature of possible long-term effects.

Barber[148] similarly makes suggestions for further research, ranging from an examination of such issues as educational versus entertainment qualities of televised trials, to the reaction of defendants to televised trials, to whether a qualified differential between print and broadcast media is justified or whether prejudicial influences are operative regardless of the introduction of cameras, attributable to the nature of the trial process in general.[149]

It is this last suggestion that served as inspiration for the proposed study. For much of the research to date--including historic, legal, and social science research--suggests it is no longer appropriate to regulate electronic media differently from print media in the matter of courtroom access, particularly if this differential is based merely on speculated impact of coverage.

Thus, the current study, following the tack suggested by the literature, examined the behavior of both print and electronic journalists in an actual courtroom. The next chapter describes how the study was carried out.

Notes

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CHAPTER 3
METHODS

In the first chapter, four research questions regarding broadcast cameras in courtrooms were presented:

> Q1: How closely do broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials?
>
> Q2: What impact do the guidelines have on coverage?
>
> Q3: Do broadcast journalists present undistorted coverage of criminal trial proceedings?
>
> Q4: Do broadcast journalists observably disrupt the judicial process at the trial court level?

Although the primary method of data collection was participant observation, three supplementary methods were also employed: content analyses, interviews, and surveys. (As is clear from the literature, case studies involving the researcher's participant observation of camera coverage of criminal trials remains unreported, *i.e.*, do not appear despite a diligent literature search.) A discussion of the theoretical strengths and weaknesses of the methodology of participant observation will be followed by a description of the specific project undertaken--including presentation of the rationale for the choice of methodology based on the scope of the research--and a brief description of refinement

of the methodology. The chapter will conclude with a description of the general limitations of the study.

Participant Observation

The prime methodology selected for the study is the style of field research referred to as "participant observation." Friedrichs and Ludtke define the method as the "recording of facts, perceptible to the senses, on the basis of a set plan in which the researcher maintains a receptive position in confrontation with the research object."[1] Gold's positions on the continuum of types of participant observation[2] range from the complete participant, who does not let people see him as an observer, to the complete observer, who takes no part in the behavior studied.

Field research is considered appropriate for study of areas which defy simple quantification and those in which attitudes and behaviors can best be understood in their natural settings. Lofland and Lofland[3] suggest appropriate focuses for field research include meanings and practices (norms, behaviors): episodes and encounters; roles and relationships; and groups, organizations, and settlements. Lofland suggests the technique is particularly useful in studying a social process over a period of time.

Friedrichs and Ludtke (along with Babbie,[4] Douglas,[5] Spradley,[6] Webb *et al.*,[7] and Yin[8]) discuss the advantages and disadvantages of the method of participant observation. For

instance, the technique allows the researcher to gain information in areas where a survey question itself might evoke attitudes affecting the answers or where access to the information desired might require a series of interviews or content analyses.

Participant observation also allows the researcher to avoid many of the pitfalls of survey research, such as a possible discrepancy between a subject's verbal behavior (what he says he would do) and his actual behavior. Moreover, the technique does not depend upon the verbal capabilities of the interviewee--nor upon the instrument design and implementation talents of the researcher.

Theorists also point out that for some questions, the inductive method leads to better understanding, due to the observer's ability to place behavior in context. The researcher might observe behaviors which escape the subject's notice, either due to selective perception by the subject or to inability or unwillingness on the part of the subject to discuss certain issues.

Finally, participant observation is a flexible method of research. It may lead to a strong understanding of a specific situation, and in fact at times it may be the only way to study a research question.

On the other hand, the same researchers point out several disadvantages of participant observation. For instance, one danger is the effect the observer's own

selective perception may have on the study. Moreover, the subject's awareness of being observed (the "Hawthorne effect") may affect his behavior in subtle ways not obvious to the researcher. Along the same lines, the subject might be misinformed, might unconsciously practice self-deception, or might present a deliberate "front" while being observed.

The observer might not be aware of certain taken-for-granted attitudes and motivations not readily apparent during the observation period. And finally, the observer might find it emotionally overdemanding to look at others as research objects--particularly if the researcher takes any position other than that of complete observer, since he would be simultaneously interacting with the subjects while conducting the research.

The researcher would need to combine several observations for a comprehensive examination of the question across time and/or space. Rather than employ the probability sampling--with emphasis on statistical significance--of quantitative research, it is likely the researcher would select a sample of observations based solely on such factors as the intuitive feel for the subject, the availability of situations and subjects to be studied, and pragmatic and logistical considerations.

According to McCall and Simmons,[9] several types of sampling are appropriate to field researchers, including the "quota" sample, the "snowball" sample, and the study of

"deviant cases." The quota sample involves selection of a representative unit of study. For instance, in a study of courtroom coverage, the unit might include observation of a representative selection of trials or of a representative selection of trial participants.

The snowball sample is one in which the units of study are derived during the course of conducting the study itself. For instance, in a study of courtroom coverage, the initial study might involve a specific trial, and as the course of judicial administration proceeds, the researcher might follow the appeals process of the trial to its ultimate conclusion.

The deviant cases approach is one in which the researcher deliberately selects cases which do not fit into the normal pattern. For instance, in a study of courtroom coverage, the researcher might select a highly-publicized case which would draw an unusually large number of journalists to the courtroom.

Glaser and Strauss[10] suggest the researcher minimize differences among comparison groups in order to enhance development of an emerging theory. According to this philosophy, minimizing differences increases the possibility that the researcher will collect much similar data in a given category and thus immediately recognize any important differences. Minimizing differences in units studied also helps establish a set of conditions under which the

researcher might establish a probability for theoretical prediction.

A major drawback to the flexibility of participant observation is that the researcher might be influenced by observations which strongly support his initial theoretical conclusions, contributing to the risk of "selective perception" mentioned earlier. Theorists suggest several means by which the researcher might attempt to ameliorate this danger.

First, the observer might augment the qualitative observations with quantitative data. For instance, in a study of courtroom coverage, the researcher might include surveys of and interviews with trial participants and journalists as well as content analyses of coverage in the study.[11]

Second, the observer might attempt some inter-subjectivity by working with another observer. In a study of courtroom coverage, the observer might request a colleague attend some court sessions and describe his observations or rely on observations of others in the courtroom.

Finally, the observer might continuously reevaluate his position to attempt to avoid the pitfalls resulting from selective perception as well as from logical fallacies (hasty conclusions, cause and effect). For a study of courtroom coverage, the observer would need to remain particularly aware that the apparent behavior in the courtroom during the

process of the trial is modified by that which occurs during bench conferences, during *in camera* sessions, and even outside the courtroom.

Regarding the development of theories based on data gathered during participant observation, one of the strengths of the method is in the area of internal validity. However, participant observation is considered weak in reliability, and particularly in external validity, or generalizability.

However, Feeley, who conducted a case study of the lower court in New Haven, suggests that rather than validity and reliability, other factors are crucial. The important questions regarding a case study according to Feeley are whether the analysis focuses on a substantial problem, whether the inquiry is cast in general, theoretically intriguing terms, and whether generic problems are central to the analysis.[12]

The prime methodology selected for the research was participant observation (role of complete observer). The rationale for this choice constitutes the remainder of this discussion.

First, the courtroom is an appropriate locale for field research according to the Loflands' criteria and in fact was the locale of observation such as that of Feeley. And the behavior of electronic journalists can best be understood in the setting in which it occurs.

Next, most of the benefits discussed above would apply to participant observation of the behavior of journalists providing trial coverage. For instance, a significant discrepancy between what the journalists say they do, what trial participants speculate their behavior to be--and their actual behavior--may exist. Participant observation would provide data which would tend either to support or to contradict the speculation. And the observer might note behaviors which subjects are unaware of or which participants are too distracted to notice.

Some amelioration of the disadvantages associated with participant observation are intrinsic to the specific personnel involved. For instance, the researcher has specific training and professional experience as a journalist covering the courts, as well as some background in the study of law and judicial administration, and thus she might be more likely to be aware of taken-for-granted attitudes and motivations of both the press and the judiciary, behaviors which might not be readily apparent during the observation period. Furthermore, the researcher's professional experience makes the treatment of people as research objects less problematic.

For pragmatic reasons (following a single sensational trial through exhaustion of appeals might take many years), the approach selected for the sample was the quota sample, in particular a representative selection of trials held in a

specific jurisdiction during a specified period of time. Following Glaser and Strauss, every attempt was made to minimize differences.

A selection of all trials involving charges of first-degree murder, discussed chronologically as they arose on the criminal docket in Florida's Eighth Judicial Circuit over a one-year period, was deemed appropriate. The choice of crimes was made due to the intuitive feeling there would be the likelihood of press coverage of such trials; moreover, a concomitant development of heavy press coverage of a case might bear an inverse relationship to the likelihood of a negotiated settlement.[13] The choice of states was made due to Florida's leading role in the evolution of courtroom cameras (one of the reasons the researcher elected to attend the University of Florida),[14] while that of the specific circuit in Florida was made due to pragmatic considerations such as proximity.

Refinement of Methodology

Prior to the actual 1989 observation period, in order to refine the methodology, in 1988 the researcher observed three representative Eighth Judicial Circuit trials in their entirety: a criminal trial with a jury, a civil trial without a jury, and a civil trial in the appropriate federal district court (the last, in which cameras are forbidden, for comparison purposes). A brief description of the

observations will be followed by the details of the methodology actually followed in the case study.

In the state court, the observer researched the backgrounds of both cases, assembled a full complement of news clips and broadcast scripts of coverage of the cases, observed the cases and the coverage in their entireties, and spoke with many of the trial participants, including attorneys, judges, the jury foreman in the criminal case, and all members of the media assigned to cover the case. In the federal court, the researcher assembled primary news clips, observed most of the testimony, and spoke with the attorneys and the members of the media covering the case.[15]

The criminal case was heard April 4-26 in the Alachua County Courthouse. The defendant had been convicted of three counts of first-degree murder and had spent six years on Death Row before his convictions were overturned. A second trial had ended in a mistrial, and this third trial was the result of a change of venue: it would also end in a conviction.

The newspaper reporter from the defendant's hometown asked the judge if he could use a small 35mm camera to take a photograph of the defendant; the judge pointed out the camera had a flash, which violated the Guidelines. The local daily published a dramatic picture taken during closing arguments: it showed the prosecuting attorney brandishing the murder weapon. The local public television station attempted to

videotape opening arguments, but after a misunderstanding with the judge regarding taping during a recess, the station was ordered to remove its cameras for the duration of the trial. The local public radio station sent a reporter with a recorder during jury selection; after she spoke to one of the veniremen in the courtroom, the judge called her aside and ordered her to remove her recorder for the duration of the trial also.

Although the judge had granted advance permission for camera coverage of the trial, the end result was one newspaper photograph. Questioned afterward, the judge (brought out of retirement for the trial) said the incidents, particularly with the television station, were unfortunate: "I hated it. I wanted to tell them, 'Bring it back, it's O.K.,' but I couldn't. Well, maybe it will help them learn a valuable lesson. I might have been overly sensitive."

The civil case was heard May 23-27 in the Alachua County Courthouse. This case involved a suit brought by 19 property owners in the Cross Creek area against the county's Land Use Plan, which they claimed deprived them of equal protection and due process: they lost their case. The local daily newspaper photographer was present for an hour each day, and the story was front-page news all week, with photographs each day. The local commercial television station presented live coverage from the courthouse opening day and live coverage from Cross Creek when the verdict was

announced. The local public television station presented coverage including courtroom footage taken the opening day of the trial. The local public radio station sent a reporter (the researcher) to cover the entire trial and presented daily live and taped reports, including interviews taped in the courthouse as well as a same-day wrap-up story sent via satellite to other Florida public radio stations.

The researcher noted a great deal of freedom granted the media in covering the trial. Questioned afterward, the judge told the researcher that since this was not a jury trial, and because he had been told the case might be of national interest (author Marjorie Kinnan Rawlings having written extensively about Cross Creek), he granted the photographers and cameramen more freedom than usual in moving around the courtroom.

The civil case was heard June 14-23 in the U.S. Middle District Court in nearby Jacksonville, Florida. In this case, the local chapter of the NAACP had sued the city of Starke, demanding a single-member-district election system and claiming the current at-large system meant a black candidate would never win election to city office in Starke. The decision, in favor of the NAACP, was handed down nine months after the trial.

The only broadcast reporter to attend the trial was from the Gainesville public radio station (the researcher). The difficulties of coverage of federal courts, where cameras

are not allowed in the courtroom, became immediately clear. The Guidelines for the U.S. Middle District Court allowed broadcast equipment only in the lobby area of the courthouse (and not on the sidewalks immediately surrounding the courthouse). However, as there was no space allotted to store equipment while the reporter was in the courtroom, the only solution seemed to be for the reporter to arrange with the trial participants for interviews at appointed times in the courthouse lobby, across the street, or at the hotels where the out-of-town participants were staying.

After minor refinements to the methodology (such as the development of a juror exit poll), the researcher then observed all four of the first-degree murder trials which appeared on the 1989 criminal docket in the Eighth Judicial Circuit. These included *Florida v. Simmons, Florida v. C. Harris and P. Harris, Florida v. Spikes,* and *Florida v. Stanley.*

Regarding the first question--how closely broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials--the researcher observed the media behavior in the seven areas of the Florida Guidelines: whether coverage was limited to one still photographer, two television photographers, and one audio system operator, with "pooling" the responsibility of the media; whether only nondistracting sound and light equipment was employed; whether placement was limited per the chief

judge's designation;[16] whether movement was limited to recesses; whether (according to court personnel) modifications to light sources acceptable to the chief judge had been installed at media expense; whether conferences with clients or judge were excluded from broadcast; and whether any of the media material was made admissible in evidence in any proceeding. (See Appendix A for the full text of the Guidelines.)

Regarding both the second and the third questions--what impact the guidelines have on coverage and whether broadcast journalists present undistorted coverage of criminal trial proceedings--the researcher first analyzed the process of coverage by questioning media personnel regarding how it was decided to cover a specific case, how the media organization determined assignment of personnel, the general background of personnel selected to cover the trials (including familiarity with the Guidelines, which was also useful in discussing the first question), and factors involved which affected the manner of coverage of each trial. She then compared the broadcast coverage of each trial with her own observations of the proceedings.

Finally, regarding the fourth question--whether broadcast journalists observably disrupt the judicial process--the researcher analyzed the findings above. She also took into account such specific considerations as whether any incidents had occurred during the proceedings

which might be classified as disruptions (such as a judge's asking a photographer to cease, a court participant's comment or obvious reaction to the presence of cameras, any motions for and/or granting of mistrial due in any part to the presence of the media).

To further attempt to mitigate the danger of some of the risks associated with the selection of the participant observation methodology, the researcher augmented the qualitative observations with quantitative data. For instance, regarding the first two questions, survey/interview data--designed to elicit a perspective on the general outlook toward courtroom camera guidelines in the Circuit--were collected prior to the observation period. The researcher interviewed 15 representatives of the Eighth Judicial Circuit regarding their experience with courtroom cameras since the implementation of the state's new Canon 3A(7) in 1977. (The results are discussed in Chapter 4: see Appendix B for the complete text of the questionnaire.)

Regarding the third question, content analysis of trial coverage--designed to provide a basis for comparison of print coverage with coverage by broadcasters in an effort to discern distortions in coverage--was conducted during the observation period. The content analysis included quantification of and analysis of all published newspaper articles regarding coverage of each trial, as well as of broadcast coverage, based on scripts and (where possible)

tapes. (The results are discussed in Chapter 4: see Appendix C for content analysis, Appendix D for selected articles and scripts.)

Finally, regarding the fourth question, survey/ interview data--designed to provide data regarding the response of trial participants to coverage in an effort to discern disruptions to the judicial process--were collected after the observation period. The researcher interviewed (in some cases, reinterviewed) trial participants, including media personnel, judges, prosecutors, and defense attorneys, and also conducted juror exit polls. (The results are discussed in Chapter 4: see Appendix E for the complete text of the juror exit poll.)

Although it was difficult for the researcher to have the benefit of a colleague's observations, the content analyses contributed some degree of intersubjectivity, as did evaluation of press coverage by trial participants: the interpretations of the researcher, the print reporters, and the trial participants were compared with those of the broadcasters. Finally, for the reasons discussed, the researcher remained particularly aware of the need for introspection throughout the observation period in order to keep to a minimum the risks involved in the methodology of participant observation.

Limitations

The limitations inherent in participant observation in general have already been discussed, as have those methodological limitations of a case study of courtroom cameras (*e.g.*, the researcher's selective perception, the "Hawthorne effect"). Additional limitations of a study of this type might include obstacles which may have limited the empirical studies of actual courtrooms to date: primarily, the judiciary's possible reluctance to allow a researcher full access to observation of entire trials, particularly if permission to interview trial participants is requested. In this aspect, the researcher has been very fortunate, in that the judiciary in the Eighth Judicial Circuit has been extraordinarily cooperative; this may be due in part to many judicial officers' being graduates of the local university and thus aware of the nature of qualitative social science research.

Most significantly, the study of only a handful of trials (despite attempts to minimize differences) in only a single jurisdiction (particularly a university town, a medium-sized broadcast market with only one commercial television station competing with the public station) suggests extremely limited generalizability. Future researchers would need to replicate the study, first, in other jurisdictions (first in Florida, then in other states); next, for other types of cases (*e.g.*, lesser crimes, civil cases); finally, at other

levels (*e.g.*, state appellate courts, eventually federal trial, and--ultimately--federal appellate courts) in order to validate the findings.[17]

Future researchers would also want to take a longitudinal approach, following particular cases through the appeals process, a necessary approach in order to evaluate the actual impact of courtroom cameras on the process of judicial administration. And eventually, someone might commission a researcher to take the time to cover enough cases under variant conditions--*i.e.*, a selection covered by print media only, a selection covered by broadcasters only, a selection covered by both, and a selection covered by neither--in order to draw some valid conclusions regarding whether the "qualified differential," allowing access to print media while regulating electronic media, is still appropriate.

Finally, future researchers might build directly on the findings of the instant study. The data might be used to construct theoretical conclusions which might be the basis for a quantitative approach to the issue of courtroom cameras.

Despite the obvious limitations of this study, the research will contribute useful information on an important topic. In fact, with the implications concomitant with the increased reliance on negotiation (*i.e.*, the shift in culpability that now suggests it may be better to convict an

innocent man than to let a guilty one go free,)[18] it is more important than ever to have as much public exposure as possible of the process of judicial administration.

Florida's Guidelines for courtroom coverage are serving as a model for guidelines developed recently in other states and are thus an appropriate subject of study (which they have not been to date). Additionally, although a single case study may not be very generalizable, there is no evidence that either the choice of locales or the selection of criminal trials studied is in anyway atypical. Thus, the study should lead to better understanding of the role courtroom cameras actually play in the judicial process, and, as necessary, to suggested refinements in current practices and procedures.

Notes

[1]Jurgen Friedrichs & Hartmut Ludtke, Participant Observation: Theory and Practice (Lexington, MA: Saxon House, 1975.

[2]R. Gold, "Roles in Sociological Field Observation," in Issues in Participant Observation, eds. George McCall & J. Simmons (Reading, MA: Addison-Wesley, 1969), 30-39.

[3]John Lofland & Lynn Lofland, Analyzing Social Settings: A Guide to Qualitative Observation and Analysis (Belmont, CA: Wadsworth, 1984).

[4]Earl Babbie, "Field Research," in The Practice of Social Research, 4th ed. (Belmont, CA: Wadsworth, 1986), 238-264.

[5]Jack Douglas, Investigative Social Research: Individual and Team Field Research (Beverly Hills: Sage, 1976).

[6]James Spradley, Participant Observation (New York: Holt, Rinehart, & Winston, 1980).

[7]Eugene Webb *et al.*, Unobtrusive Measures: Non-Reactive Research in the Social Sciences (Chicago, Rand McNally, 1966).

[8]Robert Yin, Case Study Research: Design & Methods (Beverly Hills: Sage, 1984).

[9]George McCall and J. Simmons, eds. Issues in Participant Observation (Reading, MA: Addison-Wesley, 1969).

[10]Barney Glaser & Anselm Strauss, "Theoretical Sampling," in The Discovery of Grounded Theory: Strategies for Qualitative Research (Chicago: Aldine Publishing, 1967), 55-56.

[11]A recent study involving mutual evaluations by print and broadcast rivals concluded rivals tend to be skeptical of each other, particularly in evaluating rivals' accuracy: most print journalists especially are likely to see their own work as accurate but place less confidence in the work of their broadcast competition. See Val Limburg *et al.*, "How Print and Broadcast Journalists Perceive Performance of Reporters in Courtroom," Journalism Quarterly 65:3 (Fall 1988):621-626+; Charles Sheldon *et al.*, "The Effect of Voluntary Bench-Bar-Press Guidelines on Professional Attitudes Toward Free Press, Privacy and Fair Trial Values," Judicature, 72:2 (August-September 1988):114-121.

[12]Malcolm Feeley, "Introduction," in The Process is the Punishment: Handling Cases in a Lower Criminal Court (New York: Russell Sage Foundation, 1979), xvii. See also, Chapter 1 *supra*, Notes 88-89 and discussion, for description of lack of formal hypotheses in participant observation.

[13]For discussion of the shift in theory of culpability, see, *e.g.*, George Cole, ed., Criminal Justice: Law & Politics, 4th ed. (Monterey, CA: Brooks/Cole Publishing, 1984); Feeley; W. Boyd Littrell, Bureaucratic Justice: Police, Prosecutors and Plea Bargaining (Beverly Hills: Sage, 1979); Arthur Rosett & Donald Cressey, Justice By Consent: Plea Bargains in the American Courthouse (New York: Lippincott, 1976).

[14]For example, as noted in earlier discussion, Florida's Guidelines have been proposed both for general coverage of the federal courts (Chapter 2, Note 80 and discussion, regarding "Petition to the Judicial Conference of the United States Concerning Visual and Aural Coverage of

Federal Court Proceedings by the Electronic and Print Press," March, 1983), as well as specifically for coverage of the U.S. Supreme Court (Chapter 1 *supra*, Note 81 and discussion, regarding proposal by Dean Talbot (Sandy) D'Alemberte in a letter to Justice Rehnquist.) See also *Westmoreland v. CBS*, 752 Fed. 2d 16 at 18, Note 2 (Florida Guidelines proposed for use in coverage of Westmoreland trial).

[15]For the criminal case (*Florida v. Johnson*), the researcher was a full-time observer. In the supplementary civil cases (*Glisson v. Alachua, Bradford NAACP v. Starke*), the researcher was primarily a correspondent for WUFT-FM (NPR), and the observations were incidental to coverage of the case.

[16]The Chief Judge of Florida's Eighth Judicial Circuit issued an administrative order granting responsibility for placement of equipment in all judicial proceedings to the presiding judge: "The Eighth Judicial Circuit of Florida General Administrative Order 1.720, Placement of Audio & Visual Equipment in Courtroom," August 18, 1986, Gainesville, FL.

[17]Sandy D'Alemberte, former dean of the College of Law at the Florida State University, began videotaping all proceedings of the Florida Supreme Court as of January, 1985. The tapes would serve as an excellent data base for research on appellate coverage.

[18]See Note 15.

CHAPTER 4
RESULTS AND DISCUSSION

The study of courtroom cameras in Florida's Eighth Judicial Circuit took place in 1989. However, in 1987-88, as discussed, the researcher had conducted a preliminary survey of court officials and others and had also studied three representative trials in the circuit. (See Chapter 3, *supra*.) The results of the survey will precede presentation of the results of the 1989 trials.

Preliminary Study: Eighth Judicial Circuit

During November, 1987, the researcher interviewed 15 representatives of the Eighth Judicial Circuit regarding their experience with courtroom cameras since 1977. These included the Chief Judge and a County Judge; the Clerk of the Court, the Assistant Circuit Clerk, and the Court Executive Assistant; the State Attorney and the First Assistant; the Public Defender, a private criminal attorney, a private civil attorney, the managing editor of the local newspaper, and the news directors of both local television stations (one commercial, one public) and the two local radio stations (one commercial, one public) involved in courtroom coverage.[1]

Questionnaires, including a copy of the Guidelines, were sent a week in advance to each respondent. The

interviewees were asked to describe their familiarity with the Guidelines, whether they had a problem in theory or practice with any aspect of the Guidelines, whether cases (or coverage of cases) had been handled differently since the advent of courtroom cameras, how often courtroom cameras had been encountered, how often the respondent had encountered refusal of permission for courtroom coverage, and whether the respondent foresaw any change in courtroom coverage. (See Appendix A for complete text of Guidelines; Appendix B for Questionnaire.)

The first question dealt with familiarity with the guidelines. All but one of the interviewees had seen the Guidelines. (The one exception, a radio news director, had an "operating knowledge" of them.) One of the television news directors had seen the Guidelines in the Florida Bar Association's Reporter's Handbook, and the rest were familiar with them from court sources.

With varying degrees of reservations, all of the respondents approved in principle the notion of cameras in courtrooms, the topic of the second question. The Chief Judge said he is not generally pleased with the way the media covers the courts, but he says the use of cameras does not make a difference. The County Judge said, "I'm all for it." The court administrators expressed some concern; for instance, the Clerk said he feels in some cases judges might give more lenient sentences were it not for the cameras. The

Assistant Clerk said she had no problems with audio or still cameras but was concerned in theory that television cameras might have some effect, particularly on juvenile witnesses.

According to the Assistant State Attorney, cameras are no problem. "Lawyers are actors, hams . . . very little bothers us. In terms of personalities we have an ego or we wouldn't be in that arena." However, he said sometimes witnesses have a problem. "Witnesses have a story to tell and it's not always easy. They're shy or they think the defendant will come back and kill them."

The Public Defender said, "Some of our defendants express concern. Most of our clients would prefer not to have coverage. Then we tell them that's the way it is. I've always felt it was entirely acceptable; it has never worried me."

A private attorney who spent more than 12 years in the Public Defender's office, including eight years as the Chief, says his main concern is that if the broadcasters are not going to air the entire trial, they need to balance the coverage in terms of prosecution and defense, plaintiff and respondent. "I've seen all of the worst-case scenarios on occasion. I've seen grandstanding attorneys . . . I've seen on the news at 6:00, if we didn't wait til 11:00 we'd see only one perspective. . . . The print media plays mop-up and provides depth of perspective, not available at 6:00 when you have three minutes to do a story."

Taking the actual Guidelines one at a time, no one had any problem with equipment and personnel restrictions. The civil attorney said, "When the camera is first interjected, there is a great deal of energy (in a nonpun way) being released. . . . They're relatively unobtrusive, but I've seen them attempt to violate the Guidelines, seen two at once, or lights. . . . The judge says 'No.'"

The news director of the commercial television station said that in more competitive markets, media representatives work out pooling arrangements in advance. He said in some courtrooms a single camera is intrusive, in others three cameras would not be intrusive. The news director of the public television station said his previous experience involved more flexibility: "There were some court proceedings in which we had three or more TV cameras and probably five radio stations. It was not a zoo, and as long as the courtroom is large enough to handle that number of units the judges allowed it."

Regarding the second factor, sound and light criteria, one incident was mentioned by the State Attorney: he said in one trial he could hear a still camera clicking. "It was a capital case. The judge stopped it."

The news director of the public television station expressed a great deal of concern with the audio in the courtroom. "Let's face it. What is said in the courtroom is really important. If we're not getting good audio from what

testimony is delivered, or arguments by both attorneys, or comments from the judge, then we are not communicating the delivery of justice like we should or could." He went on to suggest rewiring of courts to include microphones at the witness stand, the judge's bench, and at attorneys' podiums, all wired into an audio mixer which would allow for simultaneous audio to be fed to multiple recorders: "I think you'd see a considerable increase in the number of cases and the variety of cases being covered." The news director of the commercial radio station agreed and suggested at least one courtroom in each circuit might be wired for audio.

As far as the third factor, location of equipment personnel, the only one to comment was the commercial radio news director who said he felt the judge had too much discretion in determining what was a "reasonable" location. "'Reasonable' is too subject to interpretation and may be difficult to resolve sometimes."

The fourth criterion, limiting movement during proceedings, seemed like a good idea to most of the respondents. The Clerk said, "I think this is an excellent rule. Sometimes they don't have the respect for the system they should. For example, when the judge is speaking to the jurors from the bench, no one should move around in the courtroom." The public TV news director said he totally agreed "except to allow a photographer a chance to sit down occasionally." The public radio news director said that

although he has never encountered a problem, "There are times when a radio reporter needs to leave the courtroom in order to file a phone report to meet an hourly deadline or because of a late-breaking story or other spot news considerations. I believe that if the reporter is discreet, he should be allowed to leave during an appropriate break in the proceedings."

There were no additional comments regarding courtroom light sources. The only comment regarding conferences of counsel was that of the commercial radio news director who said he would like to hear the attorney-judge conferences.

The final criterion, regarding impermissible use of material as evidence, caused some comment. The Assistant Clerk said she thought the court ought to be allowed to rule on this "as it does on anything else." The newspaper managing editor said the rule makes sense; otherwise, defendants might request tapes. For instance: "Inmates might want them to show a 1987 judge or juror the slack jaws of the 1977 jury, claiming inadequate counsel."

The commercial television news director seemed to represent the consensus of the media on this issue when he said, "I agree with it. We're there to cover it, not be part of it."

Questioned whether cases are handled any differently since the advent of cameras, there seems to be almost universal agreement that cameras in courtrooms have had only

a positive effect, if any. The Chief Judge did, however, express concern with the lack of experience of student journalists in the college town: "One time [the campus television station] called me, a student, they couldn't get here 'til 10:00. They wanted me to postpone the trial until 10 for them."

The Assistant State Attorney said he and his staff had expected the cameras would cause a big change: "I had 35 paranoid complaints, we had conferences, we had our concerns. [But] I just don't think they affect a trial unless it's the witnesses or jurors."

The Public Defender had also expected problems but now says the cameras might affect the jurors in a positive way: "I just don't think it changes the results. Maybe it's good, maybe it makes them pay closer attention."

The civil attorney cites a case from his experience as a public defender in which the cameras affected the clients: this was a political case. His clients "wanted to make a statement, a political statement, but our job was not political. If the media hadn't been there, the case would have been like any other. The media created a forum." The attorney said he persuaded his clients not to make the statements.

The criminal attorney said there is some posturing for the cameras, but "I'm not sure posturing is a bad thing. Lawyers and judges do justice and also have to give the

appearance of justice. Actuality impacts a few, appearance impacts a lot of people. The presence of the media forces an awareness of the appearance."

As did the civil attorney, the criminal attorney cites a (different) political case, this one attracting the national media, in which the cameras had an effect on his clients: "The [local] judge couldn't believe the federal government was capable of wrong. The media forced him into the open. . . . We all refused to go into his chambers without the press corps. . . . When they were acquitted . . . the spectators, the U.S. Marshalls, they all knew justice had prevailed."

Finally, the public television news director says he thinks the media cover more courtroom cases because of the cameras. He adds his belief that court stories may also be longer since the advent of cameras.

Estimates on the <u>frequency of coverage with courtroom cameras</u> vary. The Chief Judge estimates he sees television cameramen about once every two weeks. The County Judge says he sees the cameras in his court rarely, most recently at a first appearance by a female AIDS carrier who had bitten the arresting officer.

The State Attorney says, "They're here for the major homicides. . . . The thrust was getting in. Once they got the right, they don't bother to show up." His Chief Assistant says he's seen the cameras at every first-degree

murder case he has handled since 1971, about two dozen cases. He says he was impressed recently with the concern of the media when the cameras followed the jury out to the parking lot where he was showing a piece of evidence (a shirt worn by a murder victim; the clothes had a terrible odor so he did not bring them into the courtroom). "They rode down with us in the elevator. I even took them to an apartment."

The civil attorney estimates since he began his private practice four years ago, he has seen television in the court about half a dozen times. The criminal attorney, whose clients include "the more interesting ones" (e.*g.*, a professor accused of sexual molestation, a male school principal accused of grabbing a female jogger), says (understandably) he sees the cameras quite frequently.

The commercial TV news director estimates he assigns on the average one court story a day, including almost all first appearances. The public TV news director estimates he assigns about one each three weeks and cites as examples a murder trial, murderer Ted Bundy's appeal, a state representative's bribery trial, an appearance of a child molester, and a trial of a mother accused of causing her daughter's suicide. The commercial radio station news director estimates coverage of five to ten cases in the past year, mostly murder trials; the public radio station news director covers major trials and provides blanket coverage of cases "every couple of months." The newspaper managing

editor says he rarely takes advantage of the rules allowing cameras in court--generally photographers do not accompany reporters: "Occasionally we do something else, but our tradition has not been to blow an ordinary case out of the water, even in stories."

There are only a few cases anyone could recall in which the media were turned down in a request for courtroom cameras. One case involved a prisoner who testified in a prison murder case. The Chief Judge recalls the network media covered the story, and one network did not want to comply with his decision that the face of the witness not be televised. "They said 'No' to our plan, so I said, 'Well, I get to choose the pool,' and I chose [a local television station]." (The managing editor recalls the same case and remembers cooperating with the request not to photograph the prisoner.)

Another such case, recalled by the State Attorney, occurred during the experimental year of courtroom cameras in Florida and involved a rape victim who refused to testify unless the newspapers and TV stations would agree in writing not to photograph her. Although they agreed verbally, the representatives of the media would not agree to such prior restraint in writing, and the victim refused to testify.

The criminal attorney once asked to have the press removed during a case while a client testified, but the court did not comply. He says, "I have seen times I wish they

weren't there, but to choose--never to have them or to put up with them when I don't want them--I'll take the latter."

The only respondent who reported a major problem in this area was the news director of the public radio station (a campus station): he says student reporters are turned down as much as 70% of the time they appear in court with recorders--but admits the students often fail to follow procedure in calling ahead of time for permission. "I also fear the use of unsupervised student reporters in any lengthy proceeding. . . . We hope to solve this problem in the near future by assigning a permanent staffer to supervise field coverage of any court case and more professionally negotiate with the presiding judge or the bailiff."

Regarding the future, no one foresees any dramatic change in degree of courtroom coverage. The Chief Judge expects to see perhaps somewhat less coverage ("The novelty is wearing off"), and except for some of the student reporters, generally has no problem with cameras in courtrooms. The County Judge says he expects slightly more coverage in the future, and he thinks that would be a good idea. "It's a scary thing to have a complicated process open to public scrutiny; there is the possibility the public won't understand what you're doing and why you're doing it. . . . But it's a risk we ought to be taking in order for the public to retain faith in institutions."

This position is similar to that of the State Attorney, who adds that he would like to see proceedings covered in their entirety rather than in fragments. The Assistant State Attorney says, "It's a bit of a surprise to me it's worked as well as it has."

The Court Clerk says, "I'm surprised TV doesn't show more actual trials from the beginning, especially Public TV." The Court Executive Assistant likewise says, "I don't see as much interest as I thought would develop. Either there's lack of interest or the court has figured out somehow to get rid of them."

The Public Defender concludes, "We have a uniformly good experience with them." The civil attorney says he foresees few of his cases covered unless the client is "catastrophically injured." As for the amount of coverage he saw during his years in the Public Defender's office: it was "more negligible than I would have anticipated."

According to the commercial television news director, people often call and ask that coverage not be broadcast. "We get relatives who say, 'If you show that, Grandma will just have a heart attack and die, we'll sue you' but they never do." He suggests in the future his station might cover fewer first appearances. The public TV news director, however, says he would like to cover more cases, particularly civil cases.

Finally, the criminal attorney predicts coverage of the federal courts. He says, "It's just a matter of time."

Thus, an examination of the attitudes of courtroom participants toward courtroom cameras in the Eighth Judicial Circuit of Florida reveals no major problems. The few minor concerns with the Guidelines (for instance, the need for hard-wired audio systems in courtrooms) seem to be merely procedural obstacles that can be worked out as the Guidelines are refined.

Florida v. Simmons

The first murder trial to appear on the 1989 criminal docket of the Eighth Judicial Circuit was the trial of Samuel Edwards Simmons, which took place February 16-17, 1989, in the Alachua County courthouse, Gainesville, Florida, before Judge Elzie Sanders. Eighteen-year-old Simmons was charged with first-degree murder and burglary in the beating death of a 25-year-old man in May, 1988, in Newberry, Florida. Three other teenagers were involved in the case: one subsequently pleaded guilty to second-degree murder, one to burglary, and one was not charged in the case. Simmons was found guilty of both charges, and his sentence included life imprisonment with a minimum 25 years in prison.

Courtroom Proceedings

Reporters from the daily newspaper (the Gainesville Sun), the commercial TV station (WCJB-ABC), the public TV

station (WUFT-PBS), the public radio station (WUFT-NPR), and a commercial radio station (WRUF-CBS) covered the trial.[2] (The public stations and the commercial radio station are all licensed to the Board of Regents on behalf of the University of Florida. The news directors are professionals; the reporters and technical crews are students working short shifts between classes, often for grades. Naturally, this had some effect on quality of coverage, particularly the length of time spent by reporters in the courtroom.) The researcher contacted the judge as well as representatives of the media prior to the trial, observed the proceedings in their entirety, and interviewed the judge and the attorneys after the trial. She also conducted a juror exit poll and a content analysis of all press coverage.

All five news organizations had representatives present for opening arguments on the first day, a Thursday. The TV stations pooled coverage, with the public station patched into the commercial station's equipment, which was located at the rear of the courtroom. WCJB sent only a camera operator the first day of the trial; she left after the noon recess. On Friday, WCJB sent only a student intern-reporter with no camera; he left after the jury broke for deliberations and was not present for the decision (which the jury announced at 6 p.m. while WCJB's evening news program was already on the air; the decision and sentence were included in the 11 p.m. story).

WUFT-TV's reporter and camera operator arrived about one hour after the trial began; both left after the noon recess on Thursday. On Friday, the station sent a second reporter with the camera operator, and both left when the jury broke. (The WUFT evening news program airs from 5:30-6:00 p.m. and ended before the decision was announced.)

WUFT-FM's reporter remained in the courtroom with a tape machine until after the noon recess on Thursday. A second reporter covered the trial on Friday: he remained in the courtroom with a tape machine until after the decision and sentencing. (However, WUFT-FM's last local newscast ends at 5:00 p.m. weekdays; thus the decision was not reported until newscasts resumed Monday morning at 6 a.m.)

WRUF-AM's reporter arrived late Thursday morning and stayed the rest of the day. A second reporter covered the trial on Friday; she stayed only a few hours and left before the jury broke.

Finally, the newspaper reporter was the only journalist who covered both days of the trial for her news organization. Except for missing almost the entire hour of the defendant's testimony (after lunch on Thursday), the Gainesville Sun reporter was present for the entire trial through the decision and sentencing. A Sun photographer also arrived after opening arguments Thursday morning and took photographs for approximately one hour.

The courtroom was a bit noisier than some, due perhaps to the presence of approximately one dozen teenagers, presumably friends of the defendant or of the other teenagers involved in the case. Also, about one dozen members of a college journalism class (and, during opening arguments, their professor) observed the trial.

The only notable instance of awareness of press coverage occurred Thursday morning, during the testimony of the 16-year-old witness charged with burglary in the case. During the young man's testimony, the newspaper photographer began taking pictures of the witness. At one point, the prosecutor was showing the witness some photographs taken at the crime scene; tears showed in the (extremely soft-spoken) witness' eyes, and the judge asked the bailiff to have the photographer cease. The still cameras were unusually audible. Interviewed later, the newspaper reporter said the photographer had failed to bring the "blimp"--a device usually employed to muffle camera sounds.

Media Coverage

The Gainesville Sun ran two stories on the trial, one Friday and one Saturday. The Friday story ran on page 1 A and included a three-column photograph of the defendant and his attorney as well as a one-and-a-half column photo of the witness charged with burglary in the case. The Saturday story also ran on 1 A. (The next month, the newspaper ran a

brief story on 1 B regarding the sentencing of the other two witnesses charged in the case. The newspaper also ran a letter the same week: the victim's family wrote expressing appreciation for the way in which the case had been handled. See Table 4-1, *infra*, and Appendix C for content analyses; Appendix D for selected articles and scripts.)

WCJB-TV ran four stories on the trial: one Thursday evening, one Friday at noon, one Friday at 6:00, and one Friday night at 11:00. None of the stories included any silent video or sound recorded in the courtroom ("actuality") or interviews with courtroom participants ("sound bites"). (The producer later explained that the station had "problems with the video," *i.e.*, due to the lighting restriction of the Guidelines, the station could not use artificial light, and the light level was too low in the courtroom for the station's camera to pick up a suitable picture.)

The first story described the opening of the trial and mentioned the testimony of the two other teenagers involved in the murder. The second story described the testimony of the defendant's cellmate and of the medical examiner. The third story summed up the prosecution and the defense and reported the jury was deliberating at the time of the newscast. The last story described the jury verdict and sentencing.

WUFT-TV also ran four stories on the trial: one Wednesday evening preceding the trial, one Thursday evening

mentioning the testimony of one of the other teenagers involved in the trial, one Friday evening while the jury was deliberating, and one the next Monday evening regarding the decision and sentencing. Each of the three stories which ran during and after the trial included silent footage of the courtroom, but there was no sound actuality. The only "sound bites" were brief interviews with both the prosecutor and the defense attorney taken in the hallway the first day of the trial. (A month later, WUFT-TV also ran a follow-up story on the pleadings and sentencing of another witness charged in the case.)

WUFT-FM ran six stories on the trial: one phone-in on the Thursday noon news, one story on the Thursday evening news, one phone-in on the Friday noon news, one story on the Friday evening news, and two (regarding the decision and sentencing) on Monday morning's news. Sound bites included interviews with both the prosecutor and the defense attorney taken in the hallway the first day of the trial, and the comments of the prosecutor regarding the charges against the other witnesses (the last taken in the hallway following the verdict and aired on the Monday morning newscasts).

WRUF-AM ran 20 brief stories on the trial: one preceding the trial Thursday morning, three phone-ins Thursday during the trial along with three other stories on Thursday; eight stories Friday, and five stories on Saturday morning. The preview story and half the reports aired Friday

and Saturday included sound bites of interviews with the defense attorney, the latter ones taken after the decision was announced.

TABLE 4-1
CONTENT ANALYSIS
Florida v. Simmons

WCJB-TV	WUFT-TV	WUFT-FM	WRUF-AM/FM	Gainesville Sun
4 stories	4	6	20	2 stories
0 actuality	0	0	0	1 with 2 courtroom photos
0 sound bite	1(2 d)	3(4 d)	7(3 d)	
Total Number Television Stories: 8 Average Length: :41			Total Number Radio Stories: 26 Average Length: :35	

actuality: sound recorded in the courtroom during the trial
sound bite: sound recorded with trial participants outside the courtroom
d: different sound bites, used only once, not repeated

Participant Response

Interviewed after the trial, Judge Elzie Sanders said he had no problems with courtroom cameras in theory. His only complaint with the press in general is the last-minute nature of some requests for coverage. Regarding the incident with the newspaper photographer who had been asked to halt during *Simmons*, the judge said he had to stop him because the noise was distracting. "You assume they are, as professionals, aware of the requirement; it should not be

distracting or annoying." The judge says in general the press follows the Guidelines. He did not consider the incident in this trial a significant disruption to the judicial process. As far as the accuracy of the coverage of the Simmons trial, the judge said he had no time to follow the coverage during the trial. Contacted after the trial, he said he had seen WCJB-TV's coverage and read both newspaper stories and was impressed with the accuracy of the coverage.

Prosecutor Harris Tobin, who says his appearances are covered by cameras approximately every two or three months, generally approves of courtroom cameras. He says the media follow the Guidelines, and distractions such as the incident with the newspaper photographer in *Simmons* are rare. Regarding the accuracy of coverage, the prosecutor says in general some press coverage is better than others, although he did not cite any specific cases of inaccuracies in the Simmons trial or other cases.

Assistant prosecutor Gloria Fletcher approves of still cameras and audio equipment. Although she says all broadcasters generally follow the Guidelines, she says sometimes television cameras inhibit her: for instance, she does not permit her family to come to trials due to concerns for their safety. She disagrees with the aspect of the Guidelines forbidding use of news material in subsequent litigation and says the need might arise for access in subsequent litigation. Regarding accuracy of coverage, she

says she deliberately does not follow coverage during the trial ("That way the jury's heard what I've heard"). Contacted after the trial, she said she did not notice any inaccuracies in coverage of the Simmons trial. In general, she again said still photographers and audio equipment are not distracting, but she feels television cameras may affect the jury: "They're always looking over there."

Defense attorney Craig De Thomasis generally approves of courtroom cameras, although he says the court should have the last say on whether they might be allowed in a specific case. He says the press generally follows the Guidelines, with occasional exceptions such as the incident with the newspaper photographer in *Simmons*. Regarding accuracy of coverage, he says he rarely sees fact errors. However, he says from his point of view the press sometimes misinterprets testimony, such as WCJB-TV's reporting the victim was beaten to death with an ax handle wielded by Simmons when De Thomasis felt the medical examiner's testimony showed it was not the ax handle but a second weapon--a metal window weight wielded by the teenager who pleaded guilty to second-degree murder--which was the actual death weapon.

De Thomasis then described some lawyers: "The first thing they do is look for inaccuracies. They can be minor but the lawyers will make a big deal of it." Contacted after the Simmons trial regarding coverage, De Thomasis said he disliked the headline on the second newspaper story which

implied the jury very "swiftly" reached a verdict: "I don't think two hours is 'swift.'"

It is interesting to note the defense attorney's concern with a television reporter's interpretation regarding which weapon was the cause of death, in that although WCJB-TV (as well as WRUF-AM) generally described the death weapon as a wooden ax handle wielded by Simmons, both WUFT-FM and the Gainesville Sun, while describing the metal weight as the death weapon, also reported it was De Thomasis' client--Simmons--who wielded the metal weight. (WUFT-FM reported that Simmons beat the victim to death with a "two-foot metal object." Likewise, the newspaper reported in the first story that Simmons attacked the victim with a "five-pound window sash weight." In the second story, the newspaper reported "De Thomasis argued that [the second teenager] hit [the victim] with a wooden ax handle" and later repeated that it was Simmons who had beaten the victim to death with a "metal weight.")

The researcher's notes correspond to the version reported by WUFT-FM and the newspaper. The notes describe the second teenager's testimony that he (not Simmons) had wielded the ax handle. Later notes taken during Simmons' testimony describe Simmons as testifying that the other teenager had hit the victim with an ax handle while "I [Simmons] dropped the weight."

Regardless of who wielded which weapon or whether the wooden ax handle or the metal weight should be considered the death weapon (crucial to the trial but irrelevant to the current study), the conflicting news reports may be regarded as significant for two reasons. First, they reveal how reporters, irrespective of medium, may interpret the same testimony quite differently--differently not only from each other but from the way an attorney pleading a case may interpret it. Secondly, the literature on news values predicted a general bias against perception of broadcast news coverage as meeting the same degree of accuracy perceived as met by print (a bias shared by members of the general public as well as by members of rival print media).[3] True to the predictions, the defense attorney in *Simmons* perceived a misinterpretation in the television coverage he watched, while he apparently did not notice that the newspaper version, while agreeing with his viewpoint that the metal weight was the actual death weapon, had also reported it was his own client who wielded the death weapon.

Upon dismissing the jury, the judge handed out the researcher's study and suggested the jurors might want to answer the anonymous exit poll and sent in the self-addressed envelopes--or, if they should prefer, the jurors were free to toss out the questionnaire. (See Appendix E for juror exit poll, Table 4-5, *infra*, for juror response.)

Six of the twelve jurors returned the questionnaires. Regarding the three multiple-choice questions: four jurors selected the answer most favorable to the press on the first question--courtroom cameras are a good idea which helps the public understand the judicial system better. One selected the neutral answer: cameras have some advantages, some disadvantages. The only one who thought it was a bad idea commented, "It's hard to give the full attention to the trail [sic], cameras clicking all the time."

Four selected the middle answer on the second question, indicating an awareness of the reporters and the equipment and sometimes a slight distraction; the other two said they wished the reporters and equipment were not in the courtroom. (One of the two commented, "Too noisy!" while the second wrote, "TV camera was fine, but the photographers with their flash equipment were distracting": however, it should be noted there was no flash equipment in the courtroom.)

Four jurors also selected the middle answer on the last question: coverage was fairly accurate with only minor inaccuracies. Neither of the other two respondents had seen any of the broadcast coverage. The one who thought print coverage was poor--he says he reads the Wall Street Journal and the Gainesville Sun each twice a week--commented, "Coverage was redundant and very serious differences. It was more like reading gossip & opinions than reporting the facts." The respondent who thought the print coverage was

good--he says he reads the Sun every day--wrote "Generally very accurate reporting."

Regarding the demographics of the six jurors who returned the survey: four were females, the average age was 32, three were part-time or full-time students, one a computer programmer, one a coach, and one a "teacher assistant." Only one had served on a jury previously. All said they read the Gainesville Sun, including (after the trial) coverage of the Simmons trial. Four said they watch local news on one of the TV stations which covered the trial (WCJB-ABC), and two said they listen to the news on one of the radio stations which covered the trial (WUFT-FM). However, only one juror reported he had heard (after the trial) about broadcast coverage of *Simmons*.

Thus, regarding the Simmons trial: with the exception of the incident with the newspaper photographer, the judge and the attorneys involved agreed the media followed the Guidelines. In general, coverage was seen as accurate, with only minor (if any) inaccuracies. (The researcher did note some very minor inaccuracies, not commented upon by anyone else, presumably because they were so unnoticeable: for instance, the WUFT-TV graphic on the sentencing story had the defendant's name as "Simmon," and the station at one point identified Craig De Thomasis as a "public defender." Due to a conflict, the Office of the Public Defender was unable to represent Simmons, and De Thomasis, a private attorney, was

hired by the government to represent him. Technically he was a "public defender," but not officially a member of the Office of the Public Defender.)

The only real concern regarding accuracy specifically cited, by the defense attorney, was, upon closer examination, a matter of general confusion to all involved--including the defense attorney himself. Again, except for the incident involving the newspaper photographer, which no one described as a significant disruption of proceedings, no one described any disruption to the judicial process caused by the presence of the press in general or by courtroom cameras in particular. The juror responses (50% response rate) were also generally neutral or favorable toward the use of courtroom cameras: 28% of the answers were those most favorable to the press, 50% were neutral, and 22% were those least favorable toward the use of courtroom cameras in the Simmons trial. (See Table 4-6, *infra*, for juror response percentages.)

Florida v. C. Harris & P. Harris

The second murder trial to appear on the 1989 criminal docket of the Eighth Judicial Circuit was the trial of brothers Carlton Lorenzo Harris and Pierre Cullen Harris, which took place September 26-30, in the Alachua County courthouse, Gainesville, Florida, before Judge Robert Cates. The two brothers were charged with first-degree murder in the

stabbing death of a 21-year-old acquaintance following a drug-related dispute in the streets of their Gainesville neighborhood in October, 1988. Midway through the trial, the judge granted a directed acquittal regarding one defendant; the judge said there was no evidence Carl Harris at any time participated in the stabbing, and the trial continued against defendant Pierre Harris, who was acquitted by the jury after two hours of deliberation.

Courtroom Proceedings

Reporters from the daily newspaper (the Gainesville Sun), the public TV station (WUFT-PBS), the public radio station (WUFT-NPR), and the commercial radio station (WRUF-CBS) covered the trial.[4] (WCJB-ABC, contacted the day before the trial, had changed its plan to cover the trial due to "too many other stories.") All four news organizations had representatives present for jury selection and opening arguments. WUFT-TV sent different pairs of student reporters/videographers each day; no one represented the station on the day of the verdict, a Saturday. WUFT-FM sent a staff reporter each day; he was accompanied at times by student observers and similarly was absent on Saturday. Likewise, WRUF-AM sent different student reporters each day, no one on Saturday. Finally, the newspaper sent the same staff reporter for three days and hired a student to "string" for them the last two days of the trial.

In addition to the usual spectators, about two dozen members of a college journalism class (and, one afternoon in the middle of the trial, their professor) observed the trial. After the judge admonished some noisy spectators (an incident which was noticed by at least one juror: see *infra*), the researcher randomly picked one hour to conduct a casual study of who went in and out of the courtroom: in that hour, the courtroom door opened 30 times: 23 people came in (including two media people) and eight people left (none were media people).

Only two notable instances of awareness of press coverage occurred, both during jury selection prior to opening arguments. On the first day, a student reporter for WUFT-TV walked over to the researcher and began whispering: the judge admonished the reporter. And throughout the entire *voir dire*, it was obvious pretrial publicity was an issue: the newspaper had written an advance story on the case which included the felony record of Carl Harris (inadmissible evidence), and each juror who said he had read the article was questioned in chambers by the judge and the attorneys. All but one juror who said he had ready the story were dismissed. (After later questioning, the researcher noted the judge had dismissed them "for cause," and the one juror who was allowed to remain had said she could not remember anything she had read in the article.)

Media Coverage

The Gainesville Sun ran five stories on the trial: the advance article on Monday, and one each day on Thursday, Friday, Saturday, and Sunday. The advance story had run on page 1 B, as did the Thursday story, which included a four-column photo of the defendants and their attorneys. The Friday story ran on 7 B; the Saturday and Sunday stories on 1 B. (A brief mention of Judge Cates' swearing-in of new Bar members during a Harris trial recess ran October 2. See Table 4-2, *infra*, and Appendix C for content analyses; Appendix D for selected articles and scripts.)

WUFT-TV broadcast five stories on the trial: one each evening of jury selection and trial (Tuesday-Friday, September 26-29) and one on the Saturday verdict on the next available newscast (Monday, October 2). The Tuesday night story on jury selection included footage of the empty lot where the stabbing took place as well as a "sound bite" with defense attorney Craig De Thomasis (his clients claim self-defense). Wednesday night's coverage included a sound bite with De Thomasis (State has no evidence) as did Thursday night's (still claiming State has no evidence): both nights the reporter said the prosecutor refused to appear on camera. Friday, the reporter phoned-in "live" coverage from the courthouse over silent video of courthouse scenes: included

was a description of the directed verdict of acquittal of Carl Harris.

WUFT-FM broadcast 15 stories on the trial: morning, noon, and evening on Tuesday (jury selection); and two each morning, one at noon, and one each evening during the trial (Wednesday through Friday.) The morning stories Wednesday included sound bites with defense attorney Craig De Thomasis (opining that pretrial publicity was not an overriding issue), as did one of the morning stories on Thursday (response to the testimony of the first State witness, Tony Ramsey). WUFT-FM did not broadcast a story on the verdict, as it was reached on a Saturday, and the next available newscast was not until the following Monday morning.

WRUF-AM broadcast 19 stories on the trial: two Tuesday, two Wednesday, three Thursday, six Friday, five Saturday, and one Sunday. Throughout the week, of the first 16 stories, 11 included sound bites with defense attorney Craig De Thomasis (eight different cuts). The last three stories included sound bites with the judge (a bit unusual): one taken while the jury was out, the last (repeated) after the verdict.

TABLE 4-2
CONTENT ANALYSIS
Florida v. C. Harris & P. Harris

WUFT-TV	WUFT-FM	WRUF-AM/FM	Gainesville Sun
5 stories	15	19	5 stories
0 actuality	0	0	1 with courtroom photo
3 sound bite (3 d)	3(3 d)	14(11 d)	
Total Number Television Stories: 5 Average Length: 1:08		Total Number Radio Stories: 34 Average Length: :41	

Participant Response

Interviewed after the trial, presiding Judge Robert Cates said he feels the press is an extension of the public consciousness, and both print and broadcast media have an absolute right to be in the courtroom. Although he had seen broadcasters in the courtroom at sentencing trials prior to being seated on the bench two-and-a-half years ago, he can remember only one other trial over which he presided where broadcasters were present. The judge said he agreed in general with most of the Guidelines and, in fact, his only concern was that they might be too restrictive, and such issues would be better left to individual judges; however, he expressed concern that some judges might be arbitrarily restrictive except for the existence of the Guidelines.

Regarding the Harris trial, Judge Cates said he had followed the stories in the newspaper and on WUFT-FM. He complained that although the WUFT-TV student reporters had asked him for permission to make an exception to the Guidelines and allow them to use additional lighting, the second day of the trial they had shined the light in his eyes instead of bouncing it off the wall as they had the first day. The judge said he felt the newspaper stories were "pretty accurate," and he said the radio stories he heard were accurate but "so brief as to possibly be misleading." The judge concluded that the most important thing is for a judge to remain flexible and to meet with the media to assure everyone understands the rules. He said the result then can be a very good working relationship: "I have never had any breach of faith by the press so far."

Prosecutor Margaret Stack, who says her appearances have been covered by cameras approximately once every month or six weeks during the five years she has been with the State Attorney, says she feels in general reporters are "frequently erroneous," and she wishes they would "report what they see, get it straight." She says television coverage can be distracting (although she says it has never distracted her), but she says she has no strong opinion on the issue: "You see them there all the time." Regarding the Guidelines, she says she feels that if cameras are going to be present, most of the rules are generally appropriate. As

far as *Harris*, Stack, who had read the newspaper coverage, noted an error in the third day's newspaper story, where the omission of the word "not" led the reader to believe the testimony showed the victim conclusively had recently fired a gun, when, in fact, the evidence showed the exact opposite--the correct version, and the one favorable to Stack's presentation. (The researcher's notes agreed with Stack.) She also commented that the advance story had caused a great deal of delay in jury selection (which had taken approximately 10 hours) and suggested it would be "better practice to wait until after jury selection" to print advance stories to avoid possible disruption to the judicial process.

Assistant prosecutor Phyllis Kotey, who has been with the State Attorney four years, was unfamiliar with the Guidelines until the researcher showed them to her. She said she rarely sees broadcasters because she primarily prosecutes child-abuse cases, and the broadcasters do not bring their equipment into the courtrooms. Kotey says she is "basically in disagreement with cameras in courtrooms" due to fear publicity might cause a mistrial; however, she says she has never had any problem with the media, and regarding coverage of sensitive child abuse cases, she says the press has always cooperated with her requests: "They never let me down." The only one of the guidelines Kotey did not approve of is the last, disallowing uses of media coverage in subsequent trials. She says she once subpoenaed the local commercial

station's videotapes in the trial of some political protestors (although they were not used), and she thinks trial coverage might similarly become an issue in some future case.

Regarding the Harris trial, Kotey, who had read the newspaper coverage and heard the radio coverage on WUFT-FM, said she saw minor inaccuracies in coverage (although she did not cite any offhand): "not because of any bias; they didn't understand the procedure. They called it 'this' and it was 'that,' but nothing blatant." She said she feels the advance story in the paper disrupted the judicial process: "Why not run the story after jury selection?"

Robert Rush, defense attorney for Carl Harris (whose motion for directed verdict of acquittal was granted in mid-trial), spent two-and-one-half years in the Public Defender's office prior to entering private practice. (Several of the witnesses in the Harris case were clients of the Public Defender, and thus private counsel was appointed by the court for both Harris brothers.) Rush, who says he sees cameras in only about 5% of the cases he covers (all capital cases), says he has mixed feelings toward courtroom cameras: he recognizes freedom of the press but feels somehow cameras sometimes threaten a defendant's case. He approves of most of the Guidelines, and he found the exception allowing for lights in the Harris case distracting. He also feels the aspect of the Guidelines which forbids use of media material

in subsequent proceedings to be unnecessarily limiting: "If a man's life is at stake, you should be able to use whatever resources are available."

Regarding coverage of the Harris trial, as had Stack, Rush noted the dropped word "not" in the newspaper's story and its resulting inaccurate implication (in his case, in his client's favor). Rush also complained about the advance newspaper story and its causing delay in jury selection: "There is absolutely no need to put background information on a defendant in the newspaper just to sell newspapers. Or the information could come out after the jury is impaneled."

Craig De Thomasis, defense attorney for Pierre Harris (who was acquitted by the jury), was interviewed in the preceding *Simmons* trial where his generally favorable attitude toward courtroom cameras was noted.[5] Regarding the Harris trial, De Thomasis said his only concern was the exception allowing lights to be turned on and off during the trial, which he felt distracted the jurors and witnesses.

De Thomasis said he had read the newspaper coverage of the Harris case, heard the morning news reporters on WUFT-FM, and watched one day of WUFT-TV's coverage. He found the radio coverage accurate but too brief to be of much benefit. In addition to complaining of the delays caused by the advance story and noting the dropped "not" in the newspaper story, he said that in the fourth-day story, the newspaper reporter took something De Thomasis had said out of context,

and it would have been more appropriate to have quoted his colleague's remarks, since the story was on the midtrial acquittal of Carl Harris, who was represented by his colleague, Rush. De Thomasis also felt the newspaper reporter should have made it clear that Carl Harris was granted a "directed" verdict of acquittal by the judge, as he felt some readers might think the jury had acquitted Carl Harris midtrial. De Thomasis concluded that although the pretrial publicity had caused a delay in jury selection, overall the media "treated us pretty well."

Upon dismissing the jury, the judge handed out the researcher's study and suggested jurors might want to answer the anonymous exit poll and to send in the self-addressed envelopes--or if they should prefer, they were free to toss out the questionnaire. (See Appendix E for juror exit poll, Table 4-5, *infra*, for juror response.)

Seven of the twelve jurors returned the questionnaires. Regarding the three multiple-choice questions: five of the jurors selected the neutral answer on the first question--there are some advantages to allowing cameras and some drawbacks too. One juror noted cameras "can intimidate the jury and witnesses." A 38-year-old male "civil servant" wrote a lengthy comment on the question:

> I believe if you come into court, you stay in Court, No leaving--you leave, that's it No more entrance for the period of the Court--In and out--in and out, is very distracting--When I did look--It seemed a lot were reporters--If the reporters wish to be accurate

> on the "drama" unfolding in the court room they should "behave" as if they were the "Jury" themselves--not sitting there talking--trying to catch up on the precedings [sic]. Judge Cates was quite proper in addressing this particular problem of these immature "Reporters", who never seem to grasp the seriousness of the "Court" Jail Time for these people would be welcomed by the Jury at this trail--[sic] Again I, myself was distracted by the TV camera lights--"on", "off" "on", "off" as if signaling what was, or was not important--something should be done about that. I think it distracted the witnesses more than me. The Press should understand that a fair trail [sic] is way more important, than the so called right of the public to know. But, to insure a fair trial, the Press should be allowed to observe, but not in the Present form. Either New Doors, or court regulations must be imposed on this "show". Thank you for this forum.

Two jurors selected the answer most favorable to the press on the first question--coverage is a good idea and helps the public understand the judicial system better. One juror commented: "As a first time jury member, I was more aware of the process from coverage I had seen on TV in the past."

On the second question, five jurors selected the neutral answer--reflecting an awareness of the cameras and sometimes distraction. One juror noted, "When the camera lights were turned on, I felt it was a distraction." The two other jurors who responded to the survey selected the answer most favorable to the press--hardly noticing the reporters or the equipment. A 55-year-old female school bus driver wrote a comment:

> I made a questioning comment to a fellow juror about there being cameras in the courtroom. He said it was the press. After that I hardly noticed them. My

> mind was on the trial. I think if there had been flashes, it would have been distracting.

Five jurors also selected the middle answer on the last question: the coverage was fair with only minor inaccuracies. One juror commented: "If you had not been at the trail [sic] you made [sic] have thought Carl Harris actually testified in court, but what the jury heard was a tape of Carl taken at the police station." The school bus driver commented: "I don't watch TV at all, and the radio station I listen to (WYGC-GC 101) has very scant news. I heard nothing about it." (This juror also added a comment at the end of the questionnaire: "I'm sorry this is 'late.' I just got the clippings from the 2 friends who saved them for me. Have a great day!") The sixth juror who responded to the survey selected the answer most favorable to the press--coverage was good with no inaccuracies. And the final juror who responded selected the answer least favorable to the press--poor coverage--but cited no specific examples of inaccuracies.

Regarding the demographics of the seven jurors who returned the survey: four were females, the average age was 45, one a civil servant, one an instructor, one an engineer, one a school bus driver/cashier, one a "case administrator and assistant to my husband--an attorney," one a technologist, (and one left the "occupation" question blank). Two had served on juries once before; one had served on three other juries. All said they read the Gainesville Sun and had

read the coverage after the trial. Three said they watch the news on the station which covered the trial, WUFT (five of the seven also said they also watch news on the commercial station which did not cover the trial; one does not watch the commercial station, "not since they let a sports announcer go for saying Jesus"). One does not listen to any radio news, three listen to a station which did not cover the trial, one listens to a station which did cover the trial (WUFT-FM), one listens to "any of the local stations," and one respondent specifically mentioned three stations including the two which covered the trial. However, only one (different) juror had seen or heard about broadcast coverage of the trial.

Thus, regarding the Harris trial: the judge and the attorneys expressed general satisfaction with the media adherence to the Guidelines--with the exception of the use of TV lights, an exception which the judge had granted, and then presumably was reluctant to rescind. (The researcher noted this is the first time she has seen lights used in a courtroom in the Eighth Judicial Circuit; judging from the response of courtroom participants, it will probably be the last.) The only inaccuracy in coverage, noted by three of the four attorneys, was the newspaper's dropping of the word "not," which changed the meaning of a sentence describing crucial evidence in the case; however, all agreed (and the reporter, later questioned, supported the interpretation) that it was obvious from the context of the sentence that the

dropped word was a typographical error rather than any misunderstanding of the testimony by the reporter.

None of the jurors noted the error nor any other errors in coverage, although one juror thought one sentence in a newspaper story might be misleading as to whether the jury heard actual testimony or audiotaped testimony. However, the researcher noted three additional minor inaccuracies not noticed by anyone else (assumedly because she was combing the coverage). First, in the WUFT-TV story of September 29, the reporter, who was calling in his report from the courthouse, described Pierre Harris' reenacting the stabbing; however, what the viewer saw was another witness, Tommy Smith, who was reenacting *his* version of the stabbing--about a five-second portion of the story. (Assumedly this error resulted since the reporter was still at the courthouse and did not view the video when it was edited: the video of Tommy Smith came up out of sync with the audio report on his testimony.)

The second error was in WRUF-AM's story on the evening of Friday, September 29: the jury was not "deliberating at this hour" nor was the verdict "expected Monday": the jury had recessed and was expected to resume deliberations and (presumably) reach a verdict the next morning, a Saturday.

Finally, in the Gainesville Sun October 1 story reporting the jury's verdict: both brothers were described as 29 years old rather than as 30 and 29 (understandable: even

their mother when testifying had shown some confusion as to the exact age difference).

As for the juror who wrote the lengthy comments including criticism of the reporters' constant entering and leaving the courtroom: as discussed, the researcher also had noted the judge's admonishment to noisy spectators and had taken an arbitrary hour in the middle of the trial to count: of the 31 people entering and leaving the courtroom, only two were media representatives: about half were members of the defendants' or victim's families (including a representative of the Victim's Advocate Office), and the rest were either members of the Public Defender's or State Attorney's office or students from the University (members of this last group probably mistaken by the juror for working reporters--since all three of the broadcast stations are staffed by students, they might be indistinguishable to the layman).

However, this particular juror did not select any of the answers unfavorable to the press on the multiple choice questions. In fact, only one answer (less than 5%) was least favorable to the press, 71% were neutral, and 24% were most favorable to the press (58% response rate). One juror particularly noted her appreciation of broadcast coverage in past trials' having educated her as to courtroom procedures. (See Table 4-6, *infra*, for juror response percentages.)

Thus, as with coverage of the Simmons trial, the coverage of the Harris trial would be considered to have been

handled appropriately: the media followed the Guidelines (with the exception of use of lights allowed by the judge the first two days of the trial); coverage was generally seen as accurate (with the main exception what all who noted it regarded as a typographical error in one of the newspaper stories). The only real problem regarding judicial disruption which was noted by all the attorneys--the newspaper's advance story's causing a delay in *voir dire* due to its inclusion of inadmissible evidence--is a universal issue of First Amendment versus Sixth Amendment rights in the matter of prejudicial publicity and is unrelated to the specific question of use of courtroom cameras.

Florida v. Spikes

The third murder trial to appear on the 1989 criminal docket of the Eighth Judicial Circuit was the trial of Frank Lee Spikes, which took place October 3-4 and 11, 1989, in the Alachua County courthouse, Gainesville, Florida, before Judge Elzie Sanders. Spikes was charged with first-degree murder and first-degree arson of a dwelling in the death of his 77-year-old grandfather, who died two weeks after receiving severe burns when his house burned in February, 1989, in Gainesville.

The trial had originally been scheduled for September 14 but was postponed due to the death of the defense attorney's father the night before the trial. Jury selection

took one hour October 3, and the State presented its case October 4; however, before the State rested, the Defense moved for a continuance in order to obtain the testimony of a fire official (who was originally scheduled as a State witness, and upon failure to be called, was subpoenaed by the Defense). The trial resumed on October 11. Spikes was convicted on both counts and sentenced to life imprisonment on the murder and the maximum 30 years on the arson, with a minimum 25 years in prison.

Courtroom Proceedings

Reporters from the daily newspaper (the Gainesville Sun, the Gainesville bureau of the Jacksonville Florida Times-Union (the reporter said it was a "slow day" for Jacksonville news in Gainesville), the public TV station (WUFT-PBS), the public radio station (WUFT-NPR), and the commercial radio station (WRUF-CBS) covered the trial.[6] (As with the Harris trial, WCJB-TV changed its announced plans to cover the trial: this time the assignment editor reported that when the trial had been postponed, it conflicted with coverage of a trial of a police chief in the federal court, which the station considered a major story; he said their resources were limited to coverage of only one trial at a time.)

Three of the news organizations (both newspapers and WUFT-NPR) had representatives present for the opening argument on the first day, a Wednesday (the Defense declined

to present an opening argument): WUFT-TV and WRUF-AM did not show up until the afternoon session, nor did the photographer for the Gainesville Sun. A week later, the same three organizations were present in the morning for the Defense presentation, although the local newspaper sent a different reporter (since the regular court reporter was covering a special session in the state capital; he had "debriefed" his substitute before he left town). All five organizations were present for closing arguments (including a different Gainesville Sun photographer and a different reporter from the one who had been present a week earlier for WRUF-AM), and all but the newspaper photographer were present for the verdict. The only notable instance of awareness of press coverage occurred during the first day of the trial, when the judge had the bailiff remove the newspaper photographer from the courtroom due to a noisy camera. The next week, a second newspaper photographer explained to the researcher that the local paper had bought a new camera (Nikkon F-4) which they had been assured was courtroom-approved; however, the second photographer followed the judge's admonishment to use a camera which would fit in a "blimp" (silencer).

Media Coverage

The Gainesville Sun ran five stories on the trial: one the day before the originally-scheduled trial; a small box the day after the trial was cancelled; a small box the day

the trial actually began; a story including a three-column photograph of the defendant the day after the State's case; and a story including another three-column photograph of the defendant a week later, the day after the trial concluded. All the stories appeared on page 1 B of the newspaper. (See Table 4-3, *infra*, and Appendix C for content analyses; Appendix D for selected articles and scripts.)

The Florida Times-Union ran two stories: one the day after the first part of the trial, the second a week later the day after the trial concluded; both stories ran on page 1 B. The first Times-Union story was the only one to mention the hostile response of one witness and the possibility the witness may have known the death of the defense attorney's father had caused the original delay in the proceedings. The second Times-Union story repeated the State's case, made no mention of the defense, and made no mention of the recall of the court reporter to read testimony to the jury. (Questioned later about the one-sided presentation, the reporter told the researcher: "I always just cover the opening arguments and the verdict." He added his editors agreed with his self-determined policy.)

WUFT-TV ran two stories on the trial, one the evening of the State's presentation--a story which included an interview with a neighbor who happened by outside the crime scene as well as a sound bite with the prosecutor. The second story, which ran the evening the trial concluded, was

a "live" phoner from the courthouse and included the just-reached sentence.

WUFT-FM broadcast 14 stories on the trial: one on the evening news on the eve of the trial describing the jury selection, four the first day of the trial, two the day after, explaining the continuance, one the evening before the resumption of the trial, three the second day of the trial, and three the day after the trial concluded. Six of the stories included sound bites, four with the prosecutor, two with the defense attorney.

WRUF-AM broadcast 10 stories: two the first day of the trial, three the next day, four the second day of the trial, one the day after the trial concluded. Half the stories included sound bites.

TABLE 4-3
CONTENT ANALYSIS
Florida v. Spikes

WUFT-TV	WUFT-FM	WRUF-AM/FM	Gainesville Sun	Florida Times/Union
2 stories	14	10	5 stories	2 stories
0 actuality	0	0	2 with photos	0 with photos
1 sound bite	6(3 d)	5(4 d)		
Total Number Television Stories: 2 Average Length: 1:40			Total Number Radio Stories: 24 Average Length: :41	

Participant Response

Interviewed after the trial, Judge Elzie Sanders, (whose generally favorable attitude toward courtroom cameras has been described earlier),[7] said he had asked the bailiff to remove the Sun photographer the first afternoon of the trial because the camera clicking was distracting and a violation of the Guidelines. The judge also mentioned that this was the second time this had happened in his court (the first being in the Simmons trial, *supra*). The judge, who had read the newspaper coverage, said he did not notice any inaccuracies in coverage of the Spikes trial. Regarding possible disruption to the judicial process, Judge Sanders concluded that the photographers generally ask the bailiff about specifics for coverage, and his bailiffs always insist they talk with the judge directly. He has noted no violations of his orders: "I usually find the press people are really sincere about trying to follow the Guidelines. . . . I respect them for it."

Prosecutor Harris Tobin's generally positive comments toward camera coverage have also been noted.[8] Regarding coverage of the Spikes trial, Tobin, who had read the newspaper coverage, said he did not notice any glaring inconsistencies or disruptions.

Assistant Public Defender Susan Wehlburg said she has no general objection to courtroom coverage, but she says she feels the press should not attempt to interview her until

after the conclusion of the trial, and she refuses to make any statements to the press until that time. She generally approves of the Guidelines, and she says she has noticed media coverage of her cases (she has spent seven years in her present position) only in murder trials: "You have to have a body for the media to be fascinated."

Regarding the Spikes trial, Wehlburg said she feels the media followed the Guidelines. She read newspaper coverage and heard radio coverage and found the reporting "fairly balanced." Wehlburg said she felt "hassled" when ["S]ome young lady [the reporter from WUFT-TV] informed me that if I would not make a statement, she would do the story, and perhaps I needed to balance it out. My response was that my ethics would not allow me to make one."

Upon dismissing the jury, the judge handed out the juror exit poll and suggested the jurors might want to help the researcher--whom he mentioned by name--with a doctoral study. (See Appendix E for juror exit poll, Table 4-5, *infra*, for juror response.)

Two of the six jurors returned the questionnaires. (Florida law allows a defendant the option of a six-member jury in capital cases when the death penalty is not sought.) Both jurors picked the neutral answer to the first multiple-choice question: camera coverage has some advantages, some disadvantages. However, one of the jurors commented: "I don't agree w/c. all. I personally would rather have my

privacy. Camera equipment and glaring journalist [sic] make me feel uneasy."

Both jurors also picked the neutral answer to the second question: the journalists caused a little distraction. The same juror who commented above noted: "I was also distracted by the defendants' reaction to a photographer who was trying to get a picture of him/her. He was annoyed by the photographers persistance."

However, this juror picked the most favorable answer to the press on the third question: the coverage was good with no inaccuracies (he had read the newspaper coverage only). The other juror, who read the Sun and heard about broadcast coverage of the trial, picked the middle answer to the third question: the coverage was fair.

Both jurors who responded to the poll were males: only one gave his age (43) and occupation (lab manager). One had served twice before on juries. Neither watches the TV station which covered the trial; one said he reads the Sun and listens to one of the radio stations which covered the trial (WRUF-AM).

Thus, regarding the press coverage of the Spikes trial: with the exception of the failure of a newspaper photographer to use a "blimp" (explained by the photographer as based on the assumption his new camera did not require one), the judge and both attorneys felt the journalists generally followed the Guidelines. As far as accuracy of coverage, no one noted

any inaccuracies. Finally, regarding the possibility of disruption to the judicial process: although one juror was momentarily distracted by a photographer's picture-taking, no one cited any disruption of the judicial process. The jurors who responded to the poll (33% response rate) answered most favorably to the press 17% of the time, gave neutral answers 83% of the time, and gave no answers least favorable to the press. (See Table 4-6, *infra*, for juror response percentages.)

Florida v. Stanley

The fourth (and last) murder trial to appear on the 1989 criminal docket of the Eighth Judicial Circuit was the trial of Charlie Stanley, which took place December 5-8, 1989, in the Alachua County courthouse, Gainesville, Florida, before Judge Elzie Sanders. Fifty-year-old Stanley was charged with first-degree murder in the shooting death of a co-worker in September, 1988, in Hawthorne, Florida. He was found guilty of second-degree murder and sentenced to 15 years in prison.

Courtroom Proceedings

Reporters from the daily newspaper (the Gainesville Sun), the public TV station (WUFT-PBS), the public radio station (WUFT-NPR), and the commercial radio station (WRUF-CBS) covered the trial.[9] A reporter from WUFT-TV covered jury selection with a camera in the courtroom the first day. A

different reporter covered opening arguments: she had no camera (the one assigned to her by the station was inoperable), and she said she had brought a tape deck with her, hoping to patch in to the commercial station (WCJB-ABC) equipment. However, although WCJB had accompanied the police to the wooded area where the body had been found a year earlier, the TV station did not cover the trial. (According to the Assignment Editor, contacted the day before the Stanley trial began: "We just can't cover every murder trial the way we should, gavel-to-gavel.") A third WUFT-TV reporter covered the trial the third afternoon, and on Friday a fourth crew; on both these days WUFT-TV had cameras in the courtroom.

WUFT-FM had the same reporter in the trial almost the entire time. The afternoon of the opening of the trial and the next morning he was accompanied by one assistant (who did not present any reports). A different assistant--who presented the final report when sentencing was taking place--accompanied him the final afternoon of the trial.

WRUF-AM sent different reporters for parts of each of the three days of the actual trial (a total of five different reporters). Each reporter appeared only for an hour or two during the afternoon sessions, including the verdict and sentencing.

The Gainesville Sun sent its usual court reporter who covered everything except jury selection and all but a

two-hour period during the first day of the trial. The reporter explained he had previously arranged an interview on another story and asked a colleague to sit in on the time he was absent; the colleague shared the byline on the next day's story. The newspaper reporter also missed the first 30 minutes of the defendant's testimony which came up at 6:00 on the second day of the trial when the reporter said he had assumed the jury would have been dismissed for the day. After the trial, the reporter explained to the researcher that he had argued with his editor about the importance of covering the trial in full. His editor had suggested coverage of opening and closing arguments and the verdict and sentencing were sufficient.

Media Coverage

The Gainesville Sun ran four stories on the trial: an advance story the day of jury selection, and one the second day, the third day, and the day after the trial concluded. The one which ran the second day included a two-column photograph of the defendant and his attorney. All four stories ran on page 1 B. (On the last day of the trial, the paper also ran a brief column mention about the judge's comments when sending the jury to lunch at the taxpayers' expense. See Table 4-4, *infra*, and Appendix C for content analyses; Appendix D for selected articles and scripts.)

WUFT-TV ran four stories on the trial: one during the evening news the day of jury selection and one each day on the evening news during the trial. Two of the four stories had interviews, each with both the defense and the prosecution. The first story was a preview of the trial; the second discussed the decision to allow jurors to hear the confession tape. The third story described the testimony of a somewhat hostile prosecution witness; the fourth included the verdict and sentence.

WUFT-FM ran 12 stories on the trial, all but one by the same reporter. Two of the stories appeared the day of jury selection, both "phoners" during the noon and evening news program. The second and third days each saw a story during the morning news and two more phoners during the noon and evening news. The last day there were two stories on the morning news and phoners at noon and during the evening news (by the assistant) to report the sentencing. None of the stories included any sound bites.

WRUF-AM ran 26 short stories on the trial: two the first day of the trial, seven the second day, 13 the final day, and four the Saturday morning after the trial had ended. Sixteen of the stories included interviews, 12 of them with the defense attorney (eight different cuts) and four with the prosecutor (three different cuts).

TABLE 4-4
CONTENT ANALYSIS
Florida v. Stanley

WUFT-TV	WUFT-FM	WRUF-AM/FM	Gainesville Sun
4 stories	12	26	4 stories
0 actuality	0	0	1 with courtroom photo
2 sound bite(4 d)	0	16(11 d)	
Total Number Television Stories: 4 Average Length: 1:19		Total Number Radio Stories: 38 Average Length: :39	

Participant Response

Interviewed after the trial, Judge Elzie Sanders, whose generally favorable attitude toward courtroom cameras has been described earlier.[10] said he had nothing to add to earlier comments on camera coverage. He said he noted no failure to follow the Guidelines, no distorted coverage (he had read the newspaper coverage) and noted no disruption to the trial.

Prosecutor John Carlin, Chief Assistant State Attorney, had spent five years as a Public Defender before spending the past five years with the State Attorney. He said he generally favors the Guidelines and pointed out that were the rule forbidding use of media coverage not applicable, the result would be an inequity: since only high-profile trials are covered, only certain defendants would have access to

possible appeal material. He said he sees broadcasters at about 5% of the trials he handles.

Regarding the Stanley trial, Carlin said he read the newspaper coverage and heard the coverage on WRUF-AM. He said he feels the media followed the Guidelines. However, regarding the question of accuracy, Carlin said, "This is not a very good question. It's not so much the accuracy as the thoroughness--it's just a glimpse of what goes on in a day, so it has to, to a degree, give a distorted view, even though the glimpse may be accurate." Carlin said he feels the media is "irresponsible" to print information regarding inadmissible evidence, because he feels that despite a judge's admonishment not to read the coverage during the trial, jurors often secretly disobey the admonishment, and he would like the press to wait to present the inadmissible evidence, "maybe in a summary after the verdict." Carlin added that he saw no evidence of any disruption to the judicial process caused by the press during the Stanley trial.

Defense attorney Greg McMahon had spent 10 years with the State Attorney prior to entering private practice (he was appointed to represent Stanley due to a conflict of interest with a witness who had been represented by the Public Defender. McMahon had also announced his candidacy for a county judgeship shortly before the Stanley trial.) McMahon generally approves of the Guidelines, especially the

stricture against standing in front of the bar, as he worries someone might read his notes. He said he generally has had no problem with the media, although some reporters have asked insensitive questions--of rape victims, for instance.

Regarding the Stanley trial, McMahon only read the newspaper coverage. He said the reporters generally followed the Guidelines: "The only time I noticed anyone, a photographer [from the Gainesville Sun] was sitting in the middle section [during a recess]. The judge told him to sit on one side or the other; I didn't see him after that." He said he found no inaccuracies and no disruption to the judicial process by the media: "They were real polite and stayed out of the way."

Upon dismissing the jury, the judge handed out the juror exit poll. (See Appendix E for juror exit poll, Table 4-5, *infra*, for juror response.)

Six of the 12 jurors returned the questionnaires. Regarding the first multiple-choice question: half the respondents picked the most favorable answer to the press: camera coverage is a good idea. The other half picked the neutral answer: coverage has some advantages, some disadvantages. One of these respondents commented: "The public will only see the 'sensational' parts of the trial thanks to our news media. I don't think it will help in teaching the public unless public television or educational people do the filming."

All six of the respondents picked the most favorable answer to the press on the second question: they hardly noticed the reporters or equipment. Regarding the third question: three of the respondents picked the answer most favorable to the press: the coverage was good and no inaccuracies were noted. Two picked the middle answer: coverage was fairly accurate with only minor inaccuracies (none of which was specifically described). The last respondent split her vote: she said the radio coverage was accurate (although she did not indicate listening to a station which covered this trial but one which had no coverage) and the newspaper coverage was not accurate (although she gave no examples of inaccuracies).

Thus, the jurors who responded to the poll (50%) gave answers most favorable to the press 69% of the time, neutral answers 28% of the time, and answers least favorable to the press 3% of the time. (See Table 4-6, *infra*, for juror response percentages.)

Five of the six respondents were females; the average age was 42. Two were nurses, one was a systems project analyst, one a secretary, one a fiscal assistant, and one retired. All six had read the newspaper coverage after the trial, and two said they had heard about radio and TV coverage (but neither listens to a station which covered the trial). One juror had served on a jury twice before, another once; the rest were serving for the first time. All said

they read the Gainesville Sun every day, and none is a regular member of the audience of any of the radio or TV stations which covered the trial.

Thus, regarding press coverage of the Stanley trial: no one cited any failure to follow the Guidelines. Although two jurors claimed minor inaccuracies in coverage, and one found "serious differences," none of the jurors gave specific examples. No one cited any disruption to the judicial process caused by the press.

However, although none of those surveyed noted any inaccuracies, one of the reporters noted an error he had made, and the researcher noted one extremely minor error. Three days after the last story ran in the newspaper, the reporter for the Gainesville Sun noted the word "not" had been dropped from a quote by the defense attorney, reversing the meaning of the defendant's words being cited. He printed a small "Correction" four days after the end of the trial. And the researcher noted only one minor error: on the first day of coverage, WUFT-TV reported the body had been found "two weeks" after the murder, while the testimony showed it was actually nine days.

As discussed, neither of these slight inaccuracies was noticed by anyone questioned by the researcher. Coverage of the Stanley trial would therefore be regarded as handled in accordance with the Guidelines, presented in an accurate manner, with no disruption to the judicial process.

TABLE 4-5
JUROR RESPONSE

	Simmons	*Harris*	*Spikes*	*Stanley*	TOTALS
1. General feeling courtroom cameras:					
A. Bad idea, interferes with judicial process	1	0	0	0	1
B. Some advantages, some drawbacks	1	5	2	3	11
C. Good idea, helps public understand process	4	2	0	3	9
2. During trial: How aware of cameras?					
A. Hardly noticed reporters or equipment	0	2	0	6	8
B. Sometimes distracted by presence	4	5	2	0	11
C. Very aware, wish they weren't there	2	0	0	0	2
3. After trial: Read newspaper coverage? Yes:	6	7	2	6	21
Hear about radio/TV coverage? Yes:	1	1	1	2	5
How accurate do you feel coverage was?					
A. Poor, noticed serious differences	1	1	0	0.5	2.5
B. Fairly accurate, minor inaccuracies	4	5	1	2	12
C. Good, noticed no inaccuracies	1	1	1	3.5	6.5
Respondents	6/12	7/12	2/6	6/12	
				TOTAL RESPONDENTS:	21/42
Percentage Respondents	.50	.58	.33	.50	
				TOTAL PERCENTAGE RESPONDENTS:	.50

TABLE 4-6
JUROR RESPONSE: PERCENTAGES

Multiple-choice answers	*Simmons*	*Harris*	*Spikes*	*Stanley*	AVERAGE PERCENTAGES
Favorable to press	28%	24%	17%	69%	35%
Neutral to press	50%	71%	83%	28%	58%
Unfavorable to press	22%	5%	0%	3%	7%

Thus, from observation of coverage of trials, from content analyses of coverage and from the responses of courtroom participants, it may be concluded that courtroom coverage was generally nondisruptive in the major criminal trials in Florida's Eighth Judicial Circuit in 1989. A detailed analysis of the data, with conclusions to be drawn and recommendations for the future, follow in Chapter 5.

Notes

[1]Interviewees: Chief Judge Eighth Judicial Circuit Honorable Chester B. Chance; County Judge Eighth Judicial Circuit Honorable Frederick Smith; Clerk of the Court A. Curtis Powers; Assistant Circuit Clerk Mary Grace Stephens; Court Executive Assistant Ben E. North; State Attorney Eugene T. Whitworth (deceased, 1988, subsequently replaced by Len Register); First Assistant State Attorney Kenneth Hebert (resigned, 1988, subsequently replaced, first, by George Blow, then by John Carlin); Public Defender Richard Parker; Attorney at Law Larry Turner; Attorney at Law Alan Parlapiano; Managing Editor Gainesville Sun Rob Oblesby; News Director WCJB-TV (ABC) Steve Hunsicker; News Director WUFT-TV (PBS) Richard Hoffman; News Director WRUF-AM/FM (CBS) Thomas Krynski; News Director WUFT-FM (NPR) Cecil Hickman.

[2]Journalists: Connie Bouchard, photographer Mark Dolan (Gainesville Sun); camera operator Belinda Espinosa (day 1),

student intern-reporter John Antonio (day 2) WCJB-TV; reporter Graham Barnard, camera operator Kyle Ziegler (day 1), reporter Roy Brown (day 2) WUFT-TV; Roy Brown (day 1), Steve Carmody (day 2) WUFT-FM; Robin Michaelson (day 1), Kim Acker (day 2) WRUF-AM.

[3]See Chapter 2, Note 93 & discussion (regarding such studies as that by Paul Weaver, "Newspaper & Television News," in Douglas Cater & Richard Adler, eds., Television as a Social Force: New Approaches to TV Criticism (New York: Praeger, 1975), 81-94.

[4]Journalists: Mitch Stacy (days 1-3), Fatima Ahmad (days 4-5), photographer Spencer Weiner (day 2) (Gainesville Sun); Laura McElroy, videographer David Stein (day 1), Cheryl White, videographer Eric Dodd (day 2), Eric Dodd, videographer Cheryl White (day 3), Mike Ceide, videographer Steve Slater (day 4) WUFT-TV; Steve Carmody (days 1-4) WUFT-FM; Kevin Cohen, Marie Foley, Lisa Melvin (day 1), Wali Waiters (Walter James) (day 2), Marie Foley, Kevin Benjamin (day 4) WRUF-AM.

[5]See Chapter 4, *Florida v. Simmons*.

[6]Journalists: Mitch Stacy, photographer Steven Morton (day 1), Ana Acle, photographer Spencer Weiner (day 2) Gainesville Sun; Larry Schnell, Florida Times-Union; Amy Mader, videographer Rob Lutz WUFT-TV; Steve Carmody, Karen Oliver WUFT-FM; Kevin Cohen (day 1), Marie Foley, Ken Chavinson (day 2) WRUF-AM.

[7]See Chapter 4, *Florida v. Simmons*.

[8]See Chapter 4, "Preliminary Study: Eighth Judicial Circuit." (Harris Tobin had announced his intention to run for Circuit Judge two weeks prior to the Spikes trial.)

[9]Journalists: Mitch Stacy (days 2-4), Tom Lyons, photographer Spencer Weiner (day 2) Gainesville Sun; Vicki Lovall, videographer Mike Ceide (day 1), Luisa Fartuzi (day 2), Eric Dodd, videographer Cheryl White (day 3), Mark Lieb, videographer David Rust (day 4) WUFT-TV; Steve Carmody (days 1-4), Shannon Walsh (day 2), Yolando Perdomo (day 4) WUFT-FM; Kevin Cohen (day 2), Shannon Walsh, Desiree Landers (day 3), J.C. Alvarez, Kevin Benjamin (day 4) WRUF-AM.

[10]See Chapter 4, *Florida v. Simmons*.

CHAPTER 5
SUMMARY AND CONCLUSIONS

Case Study

The problem this study explored is how closely broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials and whether the use of courtroom cameras results in undistorted coverage without observable disruption to the judicial process. The study focused on the process of broadcast coverage of four criminal trials in Florida's Eighth Judicial Circuit in 1989.

Four hypotheses in the form of research questions were presented:

> Q1: How closely do broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials?
>
> Q2: What impact do the guidelines have on coverage?
>
> Q3: Do broadcast journalists present undistorted coverage of criminal trial proceedings?
>
> Q4: Do broadcast journalists observably disrupt the judicial process at the trial court level?

The primary method of data collection was participant observation. Content analysis of trial coverage presented by four broadcast stations (the ABC and PBS TV affiliates, a commercial AM/FM-CBS, and an FM-NPR) as well as of the local daily newspaper during a preliminary period and during a

one-year observation period was also conducted. Preliminary interviews with general trial participants, including court officers and news directors, were conducted prior to the observation period, and interviews with specific participants, including trial judges and attorneys, were conducted during each trial.

Prior to the onset of the observation period, in 1987-88 the researcher observed and analyzed a sample of three trials and conducted a series of interviews with 15 representatives of the Eighth Judicial Circuit, including judges, court personnel, attorneys, and news media policy makers. Interviewees were asked to describe their experience with courtroom cameras during the decade since the experiment had begun in 1977 as well as to respond to the specific Guidelines adopted for courtroom cameras in Florida courts.

The general consensus was favorable toward cameras in principle. Some concern was expressed with the limited amount of time broadcasters spent broadcasting trial coverage, particularly the few seconds spent to describe events which may have taken eight hours in real time.

No one had any problem with equipment and personnel restrictions of the Guidelines. However, regarding sound and light criteria, there was concern expressed by some attorneys with the "clicking" sound of newspaper cameras which results when a photographer fails to use a "blimp." And the broadcasters were concerned with the difficulty of picking up

audio in the courtrooms, none of which in the Eighth Judicial Circuit is permanently wired to allow broadcasters to take full advantage of the latest technology.

In general, all agreed with the appropriateness of restrictions on location and movement of media personnel in the courtroom and prohibitions against coverage of bench conferences. Finally, although the media representatives agreed with the rule on inadmissibility of press coverage as evidence, some of the court personnel wanted the judge to retain flexibility on this issue.

Estimates on the frequency of coverage with cameras varied: the judges and attorneys estimated the cameras generally appear for homicides and sensational cases; and although the news directors of the radio stations and the public TV station agreed with this estimate, the news director for the commercial TV station estimated he assigned a court story every day, including almost all first appearances. The newspaper managing editor said he rarely takes advantage of the rules allowing cameras in courts except for murder cases and other exceptional trials. Finally, few interviewees could recall significant problems with access.

During the 12-month observation period (January-December, 1989), a total of four first-degree murder cases appeared on the criminal docket in the Eighth Judicial Circuit. In *Florida v. Simmons*, the youthful defendant was

convicted of first-degree murder in the beating death of an acquaintance; in *Florida v. C. Harris & P. Harris*, one brother charged with the stabbing death of an acquaintance was granted a directed verdict of acquittal midtrial while the second brother charged with the death was acquitted by the jury; in *Florida v. Spikes*, the defendant was convicted of arson and first-degree murder in the death of his grandfather which occurred two weeks after a fire; and in *Florida v. Stanley*, the defendant was convicted of second-degree murder after the shooting death of a coworker.

Two TV stations, two radio stations, and the local newspaper covered the Simmons trial. The only noticeable awareness of press coverage was the judge's admonishment to the newspaper photographer to halt picture-taking until procuring equipment designed to muffle camera sounds; otherwise, all courtroom participants agreed the press followed the Guidelines. The only concern regarding accuracy, cited by the defense attorney, was some confusion regarding the reporting of which of two weapons was the actual death weapon: upon close examination by the researcher, it was determined that the issue was a matter of general confusion to all involved--including the defense attorney himself. No significant disruptions to the judicial process were cited.

The public TV station, two radio stations, and the local newspaper covered the Harris trial. Regarding the

Guidelines, the judge and attorneys expressed general satisfaction with media behavior, with the exception of the use of TV lights during the first and second days of the five-day trial (an exception which the judge had granted and then presumably was reluctant to rescind). The only inaccuracy in coverage (other than extremely minor errors unnoticed by all but the researcher), cited by one of the prosecutors and both defense attorneys, was the newspaper reporter's dropping of a crucial "not" in the third day's story, an error which reversed the meaning of a sentence describing crucial evidence in the case. Regarding disruptions to the judicial process: although three of the four attorneys involved in the case pointed out that the newspaper's advance story contributed to a prolonged *voir dire* due to its inclusion of inadmissible evidence, this situation may be interpreted as a universal First Amendment/Sixth Amendment issue, unrelated to the specific question of use of courtroom cameras.

The public TV station, two radio stations, the local newspaper, and the local bureau of an out-of-town newspaper covered the Spikes trial. As in the Simmons case, the local newspaper photographer's failure to use a "blimp" to muffle his camera (explained by the photographer as based on the assumption his new camera did not require one) was the only exception to the Guidelines. No one cited any inaccuracies in coverage nor any distortions to the judicial process.

Finally, the public TV station, two radio stations, and the local newspaper covered the Stanley trial. All media personnel appeared to follow the Guidelines. The only inaccuracy in reporting (unobserved by anyone except the newspaper reporter himself, who inserted a brief correction into the newspaper four days after the trial ended) was the inadvertent omission of the word "not" in a statement from the defense attorney quoting the words of the defendant after the verdict. Except for one attorney's complaint about the brevity of coverage's possibly leading readers to misunderstand the details of the trial, no one cited any distortions in coverage nor any disruptions to the judicial process.

The results of the juror polls (50% response rate) appear to uphold the results of the survey and the interviews with courtroom participants and the researcher's observation and content analysis of news stories. First, regarding the Simmons trial, the only negative comments mentioned the noisiness of the newspaper camera (without a "blimp"), as well as a nonspecific suggestion that the coverage included serious differences from one juror's perception of the proceedings. Positive comments included the suggestion that the coverage was very accurate.

Next, regarding the Harris trial, a negative comment was the lengthy criticism of journalists (mistakenly) assumed to be responsible for causing a distraction by frequently

entering and leaving the courtroom, as well as mention of the distraction caused by the (judge-approved) use of artificial lighting by TV reporters the first and second days of the trial. Positive comments included the suggestion that a first-time juror was helped by coverage she had seen in the past.

Regarding the Spikes trial, a negative comment described the cameras' causing uneasiness on the part of one juror who was also distracted by the defendant's apparent annoyance at the newspaper photographer. (The other juror who responded to the survey--this was a six-man jury--did not write any separate comments.)

Regarding the Stanley trial, only one comment was offered. The respondent suggested that public or educational television cover trials in order to avoid sensationalism.

Finally, regarding the multiple-choice questions describing general feeling toward courtroom cameras, awareness of courtroom cameras during the trial participated in, and accuracy of coverage of that trial: an average of 35% of the respondents selected answers most favorable to the press, 58% selected answers neutral toward the press, and 7% selected answers unfavorable to the press. (See Table 4-6, *supra*.)

Analysis

Based on the information gathered from the survey, the interviews, the participant observation, and the content analysis, all four questions were analyzed. The first question asked:

> How closely do broadcast journalists follow state guidelines for behavior in courtrooms during criminal trials?

The evidence suggests the broadcast journalists follow the Guidelines very closely. In fact, the only exceptions to following the Guidelines were when (twice) the newspaper photographer failed to use equipment which would prevent "distracting sound," and when (once) the television videographers used artificial lighting for two days. As previously discussed, on one occasion the newspaper photographer had been told his new camera would not require use of a silencer, and the (student) videographers had been given special permission by the judge for an exception on the lighting--a unique exception, one which the researcher had never seen before (or since). However, in general, all concerned agreed the media largely followed the Guidelines in these--as in most--cases selected for camera coverage.

The second question asked:

What impact do the guidelines have on coverage?

The evidence suggests the Guidelines do have a noticeable impact on coverage. For instance, in one trial, when one of the television station's cameras did not produce

a broadcast quality picture (due to the Guidelines' restriction on artificial lighting), the result was the station had no video to show on the news story that night but merely presented a brief "tell" story (voice of the newscaster with graphics in background). In another trial, the broadcasters received permission from the judge to use artificial lighting to enable them to produce a broadcast quality picture; however, the threat of possible negative response from the trial participants was such that the station personnel decided not to use the lights for the last half of the trial and, as a result, had limited video. And the restriction on microphone placement (the Guidelines limit broadcasters to one microphone placed behind the bar) contributed to the failure of any of the broadcast stations during the observation period to use any "actuality" (sound taped in the courtroom).

The third question asked:

> Do broadcast journalists present undistorted coverage of criminal trial proceedings?

The evidence suggests the broadcasters generally did present undistorted coverage [defining *undistorted coverage* as a "high degree of correspondence between events (as perceived by the researcher, described by print journalists, and evaluated by trial participants) with the work product of the broadcast journalists covering the same criminal trial (taking into account assumed stylistic differences)"].

There were a few exceptions. For instance, in one trial, an attorney questioned a television broadcaster's interpretation of testimony regarding an admittedly ambiguous factor (which weapon had been the actual death weapon). Moreover, a complaint was voiced by several attorneys and one judge that the brevity of coverage (seen as more a problem of broadcasters than of print journalists) may lead to a "distortion" in the mind of the audience member who may not fully understand the ramifications of specific events. However, none of the criticism was directly related to the issue of courtroom cameras.

Finally, the last question asked:

> Do broadcast journalists observably disrupt the judicial process at the trial court level?

The evidence suggests the broadcasters did not observably disrupt the judicial process. The attorneys complained during one trial that the newspaper's advance story contributed to a prolonged *voir dire* (*i.e.*, pretrial questioning of potential jurors) due to its inclusion of inadmissible evidence. However, despite specific questioning on this crucial issue--due to the traditional objections to courtroom cameras as well as to apprehensions expressed by some of the court personnel in the preliminary survey--none of the trial participants mentioned any specific instance of disruption caused by cameras, nor did the researcher's

observations or the content analyses suggest any such disruption.

Conclusions and Recommendations

The purpose of this study was to take a first step in actual observation of the behavior of broadcast journalists in a courtroom. Based on the information reported earlier, the discussion to follow will focus on an evaluation of the journalists' adherence to the state guidelines for courtroom coverage and the impact of the guidelines on the coverage, the effect of this behavior on presentation of undistorted coverage without observable disruption of the judicial process, and suggestions to policy makers interested in improving the performance of broadcast journalism as a medium for informing and enlightening the public while minimizing the potential danger of Free Press/Fair Trial conflict.

Florida Guidelines

First, based on the data, the Florida Guidelines, (which, as discussed, serve as a model for other states as well as for possible coverage of federal courts),[1] seem to be appropriate and should continue to be strictly adhered to: following the Guidelines appears virtually to eliminate problems. In the only instances where the journalists varied from the Guidelines (*i*.e., failing to use a "blimp" on a still camera and the television videographers' seeking an exception to the prohibition against artificial lighting),

the consensus is that the failure to adhere to the Guidelines causes a distraction.

The only major area of concern with the Guidelines, noted by several of the medial personnel in the survey (and a justifiable concern based on the observations of the researcher), deals with the poor audio quality available to the broadcaster limited by the Guidelines to a single microphone in a traditional courtroom. In fact, the content analysis of all four trials revealed that *none* of the 141 stories included *any* "actuality," *i.e.*, sound actually recorded in the courtroom during the trial. Time and again the broadcast journalists would sit in the courtroom (often arriving late, after missing crucial steps in the proceedings), and then, during a recess, would interview the attorneys in the hallway and ask the attorneys to sum up the day's events. Thus, rather than the observations of an impartial observer, trained to present objectively all points of view, the observations of a biased source--who is pledged in a criminal case to present the strongest legally supportable case on behalf of either the State or the defendant--are being presented to the public. And although this situation does not meet the criteria established in the case study for distorted coverage, the researcher perceived a potential for distortion in the coverage.

Therefore, regarding the Guidelines, the researcher recommends, first, that broadcasters continue to be required

to follow strictly the strictures, particularly the technical requirements designed to minimize distracting sound and light. Moreover, in the interest of improved coverage (and to safeguard against potential distortion), media representatives might work with courtroom personnel to permanently wire at least one courtroom in each jurisdiction to accommodate electronic equipment. This would allow broadcasters to make full use of the opportunity to present "actuality" rather than interviews with attorneys (or, as is often the case in television coverage, audio reports of proceedings "voiced over" silent video of courtroom participants).

Undistorted Coverage

Data collected directly regarding the issue of presentation of undistorted coverage leads to the conclusion that rather than fact errors, the major cause of perceived distortion is due to a general feeling, particularly among members of the Bar, that journalists misinterpret some of what they see (although generally unsupported by specific examples during the study). Of even greater concern to court officers is the brevity of most broadcast coverage, due in part to the inability of the representative broadcast journalist to spend a sufficient amount of time in the courtroom to comprehend fully the proceedings. In the case study, with 19 television stories, the average length of the actual presentation on the news was roughly 1:20; with 122

radio stories, the average length of the presentation on the news was approximately :40. (See Tables 4-1 through 4-4, *supra*, and Appendix C.) Moreover, in contrast with print reporters (who were present in the courtroom throughout most of each trial), many of the broadcast reporters were in the courtroom only part of each day, and (with the exception of one radio station's field reporter, specifically hired to cover as much of a single event as possible), different broadcast reporters often covered different days of a trial, sometimes even different parts of a day.

Thus, regarding the presentation of undistorted coverage: the researcher recommends, first, that broadcasters recognize the potential dangers of incomplete coverage and make every effort to increase the length of coverage of courtroom stories. Within the (regrettable) limitations of traditional broadcast news, such efforts might have a negligible effect; however, acknowledgement of the problem might lead eventually to more "gavel-to-gavel" coverage of trials, much as the limitations of traditional television network news led to the eventual success of all-news stations and networks such as CNN. Moreover, in the interest of improved coverage, local stations might follow the television networks' lead and attempt more "beat" coverage, allowing reporters to become more familiar with courtroom procedures and able to more quickly grasp the essentials of an individual trial.

Judicial Process

The final area of concern of the study was possible disruption to the judicial process caused by courtroom cameras. The data indicate (as was predicted in some of the recent literature)[2] that rather than specific problems arising from the use of cameras, major concerns are those of traditional Free Press/Fair Trial, such as the potential for prejudicial publicity concomitant with pretrial coverage. In this area, the potential for disruption seems compounded by the apparent ignorance of some broadcast journalists, who may enter the courtroom with an insufficient understanding of the judicial process and the delicacy of its safeguards.

Based on intuition (a survey of journalism schools would be a natural next step in research), the researcher concluded that the majority of broadcast journalists receive insufficient education in courtroom procedures. For instance, one (student) journalist arrived at the third of the trials to which he had been assigned during the case study, sought out the defense attorney, and the first question asked was whether the client had pleaded "guilty"; the attorney gritted his teeth and, "on mike," explained that if the plea had been "guilty," there would have been no need for a trial.

Admittedly, one of the limitations of this particular study is the disproportionate number of student journalists covering the news in a college town. However, there is

nothing in the researcher's background as a professional broadcast journalist in both large and small markets, as a broadcast journalism educator associated with three different educational institutions, or in data gathered during informal interviews with professional (nonstudent) journalists encountered during the case study which would indicate journalism schools are fully recognizing the problem: the recent increase in states permitting some form of courtroom camera coverage (only 10 of the 45 states currently permitting coverage allowed any courtroom cameras before 1980) suggests curriculum revisions are needed.

A final observation regarding coverage of courts is offered by the researcher: a recommendation reached inductively after conducting the case study (as the participant observation literature suggested) rather than as a direct result of attempting to answer the research questions on camera usage. Just as some of the literature had predicted, there was evidence of some prejudice in the legal community regarding the ability of journalists, particularly broadcast journalists, to interpret properly what they saw in the courtroom. (The most noticeable instance was one attorney's charging a broadcaster with misinterpreting testimony unfavorable to his client: the researcher's notes agreed with the broadcaster.)

The researcher, with some education in both constitutional law and criminal procedure, observed several

instances where the journalists indeed misunderstood the nuances of the proceedings. For instance, the journalists routinely left the courtroom when the judge was reading jury instructions, regarding the instructions as dull and routine, not realizing that the instructions might include important factors (such as whether lesser charges would be considered)--factors which would presumably have an impact on the jury's deliberations and on the verdict.

However, on the other side of the issue: the broadcast journalists accurately presented coverage from the layman's point of view. Because the typical journalist covering the courtroom did not have a legal education, he was detached from the intricacies of the machinations of the attorneys, who are trained to take advantage of legal technicalities to win "their" cases: the journalist did not see each motion granted as a "point" for either "side" but rather concentrated on the defendant--and the verdict--in reporting the trial. It may be this approach which contributes to criticism of journalists by members of the legal profession.

Therefore, along with the recommendation that the journalists receive more education about courtroom proceedings, the researcher also suggests that members of the legal community might benefit from more education regarding the work of journalists. Particularly relevant would be discussion of the goal of the journalist to present impartial coverage. Perhaps increased understanding of the restraints

of broadcast journalists in particular (*e.g.*, the need to meet split-second deadlines, the tradition of the Fairness Doctrine which has led some members of the public to expect every broadcast news story to balance equally opposing viewpoints) might enhance the relationship between members of the press and bar.

Suggestions for Further Research

As discussed earlier, a study of only a handful of criminal trials (all for first-degree murder) in a single jurisdiction (a medium-sized broadcast market with only one commercial television station competing with the public station) suggests extremely limited generalizability. Future researchers would need to replicate the study: first, in other jurisdictions and different-size broadcast markets, next for other types of cases, finally at other levels in the judicial process, in order to validate the findings. It would also be beneficial to take a longitudinal approach, following particular cases through the appeals process. Eventually a researcher might study a selection of cases under variant conditions--*i.e.*, a selection covered by print media only, a selection covered by broadcasters only, a selection covered by both, and a selection covered by neither--in order to draw some valid conclusions regarding whether the "qualified differential," generally allowing courtroom access to print media while regulating access by

electronic media, remains appropriate. Nothing in the researcher's study of the history of courtroom cameras and the development of new technology, or the legal questions involved such as the question of the constitutionality of access and the appellate record's general lack of convictions overturned due to courtroom camera coverage, supports continuation of the differential. Nor does the data gathered for the instant study--which seems to be a first attempt at combining participant observation of actual courtroom coverage with interviews, surveys, and content analysis--and which might serve as the basis for theoretical conclusions to be tested by future quantitative research.

As also discussed earlier, the methodology of participant observation raises questions beyond the scope of the study itself, questions which might be answered by further inquiry. For instance, the observer realized in conducting the study that although it seemed to demonstrate a limited potential for cameras to disrupt the judicial process, it might be useful to concentrate on the suggestions in *Estes* that cameras might have an adverse impact on the defendant or on the quality of testimony of the witnesses. Thus, future researchers might study the possibility of the impact of camera coverage on trial participants other than the judges, attorneys, and jurors of the case study. And communications researchers, who have made only a very hesitant start in the area, might do well to conduct studies

of the impact of the coverage on the audience: does camera coverage enhance audience understanding of the process? If so, in what ways?

The study also leads to broader philosophical questions. For instance, does camera coverage of criminal trials--when only ten percent of arrests actually end up in trial, with the great majority of cases settled somewhere earlier in the process of adjudication--add to a possible misconception on the part of the public regarding the actual process of judicial administration today? Furthermore, one might discuss the role of camera coverage and press coverage of trials in general vis-a-vis the democratic values underlying the assumption that coverage benefits the public good.

When William Lozano, an Hispanic Miami policeman, was recently tried for manslaughter in the shooting deaths of an unarmed black motorcyclist and his passenger, community leaders specifically requested a local public television affiliate provide nightly gavel-to-gavel coverage of the trial. The community hoped to avoid another outbreak of racial violence, similar to those which occurred during two earlier Miami trials in cases involving the killings of blacks by white policemen--and the type of "civil disturbance" which also had taken place the night of the Lozano shootings. The leader of the Miami Community Relations Board, which requested the television coverage,

explained: "A basic philosophy we have is that when people are informed, they are able to assess judicial proceedings and develop a respect for the judicial process."[3]

The eight Miami television stations devoted hundreds of hours to coverage of the Lozano trial; reviews of the coverage comprised one-fifth of the Miami Herald's post-verdict-day news, with columns by both the "Anglo" TV columnist and his Hispanic associate (including "MVP" awards and one for "most embarrassing moment").[4] William Lozano was convicted on December 7, 1989, and on that day there were no riots; in addition to the verdict itself, perhaps the courtroom cameras had contributed in some way to defusing the potentially explosive situation.

As discussed, courtroom cameras were the scapegoat for the disruption of the judicial process in the most sensational case of its time more than 50 years ago (*Hauptmann*); they were derided by the U.S. Supreme Court for speculative "mischievous potentialities" to due process, contributing to an overturned conviction 25 years ago (*Estes*). Today, however, as in *Lozano*, courtroom cameras may again be invited to enter the courtroom in order to dramatize the fairness inherent in the unique process of judicial administration under the U.S. Constitution.

Curious history indeed.

Notes

[1]For example, as noted in earlier discussion, Florida's Guidelines have been proposed both for general coverage of the federal courts (Chapter 2, Note 80 and discussion, regarding "Petition to the Judicial Conference of the United States Concerning Visual and Aural Coverage of Federal Court Proceedings by the Electronic and Print Press," March, 1983; as well as specifically for coverage of the U.S. Supreme Court (Chapter 1, Note 81 and discussion, regarding proposal by Dean Talbot [Sandy] D'Alemberte in a letter to Justice Rehnquist.) See also *Westmoreland v. CBS*, 752 Fed. 2d 16 at 18, Note 2 (Florida Guidelines proposed for use in coverage of Westmoreland trial).

[2]See, *e.g.*, Susanna Barber, News Cameras in the Courtroom: A Free Press-Fair Trial Debate (Boston: Ablex Publishing, 1982) 91.

[3]Rabbi Solomon Schiff, quoted by Barry Klein, "Miami Station Airs Trial to Defuse Racial Tensions," Electronic Media, December 4, 1989, 2. For further discussion of media coverage of the Lozano trial, see, *e.g.*, Marvin Dunn, "Why the Lozano Trial Should be Moved," Miami Herald, 19 October 1989, 5 C; Solomon Schiff & Donald Bierman, "Listen to the Voices of Reason: Justice System is Providing a Fair Trial to Officer William Lozano," Miami Herald, 5 December 1989, 27 A+.

[4]S. Sonsky, "TV Gets High Marks for High-Stakes Coverage," and J. Carlos Coto, "Channel 23 Led Spanish-Language TV Coverage," Miami Herald, 8 December 1989, 23 A. See also, M. Wilson, "TV Coverage No Courtroom Drama, But It Served Its Purpose," Miami Herald, 13 December 1989, 1 D+.

APPENDIX A
STANDARDS OF CONDUCT AND TECHNOLOGY GOVERNING ELECTRONIC MEDIA AND STILL PHOTOGRAPHY COVERAGE OF JUDICIAL PROCEEDINGS ("GUIDELINES")

APPENDIX 1

PETITION OF POST NEWSWEEK STATIONS, ETC.
Cite as, Fla., 347 So.2d 404

1. *Equipment and personnel.*

(a) Not more than one portable television camera [film camera—16 mm sound on film (self blimped) or video tape electronic camera], operated by not more than one camera person, shall be permitted in any trial court proceeding. Not more than two television cameras, operated by not more than one camera person each, shall be permitted in any appellate court proceeding.

(b) Not more than one still photographer, utilizing not more than two still cameras with not more than two lenses for each camera and related equipment for print purposes shall be permitted in any proceeding in a trial or appellate court.

(c) Not more than one audio system for radio broadcast purposes shall be permitted in any proceeding in a trial or appellate court. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the chief judge of the judicial circuit or district in which the court facility is located.

(d) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the presiding judge to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the presiding judge shall exclude all contesting media personnel from a proceeding.

2. *Sound and light criteria.*

(a) Only television photographic and audio equipment which does not produce distracting sound or light shall be employed to cover judicial proceedings. Specifically, such photographic and audio equipment shall produce no greater sound or light than the equipment designated in Appendix A annexed hereto, when the same is in good working order. No artificial lighting device of any kind shall be employed in connection with the television camera.

(b) Only still camera equipment which does not produce distracting spund or light shall be employed to cover judicial proceedings. Specifically, such still camera equipment shall produce no greater sound or light than a 35 mm Leica "M" Series Rangefinder camera, and no artificial lighting device of any kind shall be employed in connection with a still camera.

(c) It shall be the affirmative duty of media personnel to demunstrate to the presiding judge adequately in advance of any proceeding that the equipment sought to be utilized meets the sound and light criteria enunciated herein. A failure to obtain advance judicial approval for equipment shall preclude its use in any proceeding

3. *Location of equipment and personnel*

(a) Television camera equipment shall be positioned in such location in the court facility as shall be designated by the chief judge of the judicial circuit or district in which such facility is situated. The area designated shall provide reasonable access to coverage. If and when areas remote from the court facility which permit reasonable access to coverage are provided all television camera and audio equipment shall be positioned only in such area. Video tape recording equipment which is not a component part of a television camera shall be located in an area remote from the court facility

(b) A still camera photographer shall position himself or herself in such location in the court facility as shall be designated by the chief judge of the judicial circuit or district in which such facility is situated The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once a photographer has established himself or herself in a shooting position, he or she shall act so as not to call attention to himself or herself through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of court proceedings.

APPENDIX 1—Continued

(c) Broadcast media representatives shall not move about the court facility while proceedings are in session, and microphones or taping equipment once positioned as required by 1(c) above shall not be moved during the pendency of the proceeding.

4. *Movement during proceedings.*

News media photographic or audio equipment shall not be placed in or removed from the court facility except prior to commencement or after adjournment of proceedings each day, or during a recess. Neither television film magazines nor still camera film or lenses shall be changed within a court facility except during a recess in the proceeding.

5. *Courtroom light sources.*

With the concurrence of the chief judge of a judicial circuit or district in which a court facility is situated, modifications and additions may be made in light sources existing in the facility, provided such modifications or additions are installed and maintained without public expense.

6. *Conferences of counsel.*

To protect the attorney-client privilege and the effective right to counsel, there shall be no audio pickup or broadcast of conferences which occur in a court facility between attorneys and their clients, between co-counsel of a client, or between counsel and the presiding judge held at the bench.

7. *Impermissible use of media material.*

None of the film, video tape, still photographs or audio reproductions developed during or by virtue of the pilot program shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.

8. *Appellate review.*

So that the Court may evaluate in depth all experiences engendered under the program at the end of one year, and to preclude appellate activity during the test year, (1) no appellate review shall be available to the electronic or still photographic media from individual orders entered by trial or appellate courts ruling upon matters arising under these standards, and (2) no appellate court shall entertain any petition by the electronic or still photographic media for extraordinary writ seeking in any way to affect such media reporting of a judicial proceeding or proceedings; provided however, that any party to this proceeding, any electronic media representative or any circuit or district court chief judge may at any time during the one-year pilot program apply to this Court, with proper notice to all parties, to amend the standards set out in this Order for the purpose of meeting unforeseen technical difficulties in their general application.

9. *Evaluation of program.*

At the conclusion of the one-year pilot program, all media participants in the program, all parties hereto, and all participating judges are requested to furnish to the Court a report of their experience under the program, so that the Court can determine whether or to what extent Canon 3 A(7) shall be modified.

APPENDIX B
COURTROOM PARTICIPANT QUESTIONNAIRE

1. Name:

2. Title:

3. Are you familiar with the (enclosed) Standards of Conduct and Technology Governing Electronic Media and Still Photography Coverage of Judicial Proceedings?
   If so, how did you become familiar with the Guidelines?

4. How do you feel in principle about allowing in the courtroom

   a. Television cameras?
   b. Audio recorders?
   c. Still cameras?

5. Do you have a problem in theory or practice with any of the sections of the Guidelines?
   If so, please describe:

   a. Equipment and personnel
   b. Sound and light criteria
   c. Location of equipment and personnel
   d. Movement during proceedings
   e. Courtroom light sources
   f. Conferences of counsel
   g. Impermissible use of material
   h. Appellate review

6. Do you handle cases (coverage of cases) any differently since the advent of cameras in courtrooms?
   If so, please explain:

7. How often would you estimate you encounter in your courtroom (assign reporters to) television, radio, or still photography courtroom coverage?
   Please list any such cases encountered (covered) the past year:

9. Do you foresee any change in the amount of courtroom coverage with television, radio, or still photographic equipment in future?

10. Any other comments regarding cameras in courtrooms:

Thank You!

Supplementary (Post-Trial) Questions

Trial:
Date:
Interviewee:

1. (Show Guidelines) Do you feel the reporters (newspaper, radio, & TV) followed the courtroom Guidelines in the case in which you just participated?

2. What did you observe of press coverage of the trial (read the newspaper, hear the radio news, watch TV news)?

3. What is your opinion of the coverage of the trial insofar as accuracy, i.e., degree of distortion, comparing your perception of the trial with that presented?

4. Do you feel the press coverage in any way disrupted the judicial process?

5. Any other comments?

Thank You!

APPENDIX C
CONTENT ANALYSES

Florida v. Simmons

Gainesville Sun

February 17, 1989, P 1 A+, "Teen says plan to 'intimidate' ended in man beaten to death," Connie Bouchard, (three-column photo defendant Simmons & attorney; one-and-one-half-column photo witness Burger). First day of trial. Testimony of witnesses Chris Burger and Michael Williams, mentions Delk. Simmons "took the pipe & hit him," attacked him with a "five-pound window sash weight."

February 18, 1989, P 1 A+, "Jury swiftly convicts 19-year-old of murder," Connie Bouchard. Conclusion of trial, verdict, & sentencing. Simmons beat Horne to death "with a metal weight."

(March 5, 1989, "Murder victim's family found solace in legal system." Letter-to-Editor (s) Ginny McKoy & Nancy Kanaan for the family of David Horne, praising handling of case by government officials & court participants.)

(March 7, 1989, 1 B, "Archer teen gets 4 years in death," Connie Bouchard. Follow-up sentencing of Williams & Burger plea.)

WCJB-TV

February 16, 1989, 6 p.m., :30 tell over key graphic. Background and first day of trial, mention of witnesses Burger & Williams. Horne "bludgeoned to death with a wooden handle."

February 17, 1989, noon, :30 tell over key graphic. Morning's trial testimony, witnesses Simmons' cellmate Benton and medical examiner.

February 17, 1989, 6 p.m., :30 tell over key graphic. Jury is deliberating at this hour. Mentions prosecutor & defense, says Horne bludgeoned "with a wooden handle."

February 17, 1989, 11 p.m., :30 tell over key graphic. Jury verdict & sentencing.

WUFT-TV

February 15, 1989, evening news, :30 voice over video (courtroom scene, Simmons, some other judge). Advance story, mentions Williams plea.

February 16, 1989, evening news, 1:30 voice over video (courtroom). Inc. bite with prosecutor Tobin (:10) and defense attorney ("public defender") De Thomasis (:10), mentions Williams & Burger.

February 17, 1989, evening news, 1:00 voice over video (courtroom, Simmons). Jury is deliberating at this hour. Simmons hit Horne "twice on the head with a lead pipe." Mentions Williams & Burger.

February 20, 1989, evening news, :30 voice over video (courtroom, Simmons). Verdict & sentencing. (graphic "Simmon Trial")

(March 6, 1989, evening news, :30 voice over video. Follow-up sentencing of Williams.)

WUFT-FM

February 16, 1989, noon, 1:00 phoner, reporter Brown. Opening arguments, mentions Burger testimony.

February 16, 1989, evening news, 1:00 reporter Brown. State's case, inc.:15 bite prosecutor Tobin (not all evidence being allowed in) and :15 bite defense De Thomasis (State's deals with witnesses unfair to Simmons). Murder weapon "described as a two-foot metal object."

February 17, 1989, noon, 1:00 phoner, reporter Carmody. Medical examiner's testimony & recap Burger & Williams testimony.

February 17, 1989, evening news, 1:00 phoner, reporter Carmody. Jury deliberating, Simmons testimony. Mentions Williams plea.

February 20, 1989, morning news, 1:00 reporter Carmody. Sentencing, inc. :11 bite Prosecutor Tobin re reconsidering deal made with Williams & Burger.

February 20, 1989, morning news, 1:00 reporter Carmody. Sentencing, inc. :09 bite Prosecutor Tobin re reconsidering deal made with Williams & Burger.

WRUF-AM

February 16, 1989

a.m. :40 preview, inc. :10 bite with defense De Thomasis. Mentions Burger & Williams.

p.m. :30 phoner, reporter Michelson from courthouse. Burger testimony.

p.m. :30 phoner, reporter Michelson from courthouse. Williams plea. Simmons accused of beating Horne "with a metal weight."

4:06 p.m. :30 phoner, reporter Michelson from courthouse: Williams testimony. Simmons used "a wooden axe."

8:15 p.m. :20 recap.

8:20 p.m. :20 recap. Simmons "beat Horne with a wooden handle."

9:06 p.m. :20 recap. Simmons "beat Horne with a wooden handle."

February 17, 1989

4:20 p.m. :10 recap, jury deliberating.

5:30 p.m. :40 reporter Acker, jury deliberating.

7:20 p.m. :10 verdict & sentencing.

8:06 p.m. :45 verdict & sentencing, inc. :13 defense attorney De Thomasis re appeal. Weapon was "wooden ax handle" and "some knives."

9:20 p.m. :20 verdict & sentencing, "wooden ax handle."

10:06 p.m. :20 verdict & sentencing, "wooden ax handle." Inc. :13 defense attorney De Thomasis re appeal.

10:20 p.m. :10 verdict & sentencing.

11:06 p.m. :40 verdict & sentencing, inc. :10 defense attorney De Thomasis re appeal. Weapon was a "wooden ax handle."

February 18, 1989

6:06 a.m. :40 verdict & sentencing, inc. :10 defense attorney De Thomasis re appeal.

8:20 a.m. :10 verdict & sentencing.

9:06 a.m. :40 verdict & sentencing. Weapon was a "wooden ax handle."

11:06 a.m. :40 verdict & sentencing, inc. :10 defense attorney De Thomasis re appeal. Simmons & friends carried "an ax handle and some knives."

noon :40 verdict & sentencing, inc. :10 defense attorney De Thomasis re appeal. Simmons & friends carried "an ax handle and some knives."

Florida v. C. Harris & P. Harris

Gainesville Sun

September 26, 1989, 1 B+, "Murder trial set to begin," Mitch Stacy. Background, includes Carl Harris' record of 12 felony arrests.

September 28, 1989, 1 B+, "Brothers in murder trial plead self-defense," Mitch Stacy. State witness Tony Ramsey testimony. Inc. four-column photo Harris brothers & attorneys.

September 29, 1989, 7 B, "Murder trial focus shifts to weapons," Mitch Stacy. Says expert testified victim's hands "did contain sufficient traces of gunpowder to conclude that he definitely fired the shot."

September 30, 1989, 1 B+, "Murder charged dropped against 1 brother," Fataima Ahmad. Charge against Carl Harris dropped, quotes Pierre's attorney De Thomasis in response.

October 1, 1989, 1 B+, "Courtroom jubilation: Brother innocent of death," Fataima Ahmad. Jury acquits Pierre Harris, quotes Carl's attorney, then Pierre's attorney in response. Gives both ages as 29.

(October 2, 1989, 1 B, "In the Margin." Column of feature tidbits mentions during 20-minute recess to excuse juror in Harris trial, judge swears in three new Bar members.)

WUFT-TV

September 26, 1989, 1:00 package, reporter McElroy. Includes video of crime site, :10 bite defense attorney De Thomasis.

September 27, 1989, 1:00 voice over video, includes :10 bite defense attorney De Thomasis, prosecutor refuses comment.

September 28, 1989, 1:00 voice over video, includes :16 bite defense attorney De Thomasis, prosecution refuses comment.

September 29, 1989, 1:30, includes reporter Ceide "live" phoner from courthouse over video, acquittal of Carl Harris. (Describes Pierre Harris' testimony over video of Tony Ramsey testimony).

October 2, 1989, 1:00 voice over video, acquittal of Pierre Harris.

WUFT-FM

September 26, 1989

6:05 a.m. :20, reporter Carmody. Backgrounder: jury selection to begin.

noon, :40 phoner, reporter Carmody. Jury selection begins, victim's family watching.

evening news, :40, reporter Carmody. Jury selection ending.

September 27, 1989

6:05 a.m. :40, reporter Carmody. Inc. :18 defense attorney De Thomasis (pretrial publicity not an issue).

7:55 a.m., :35. Inc. :13 defense attorney De Thomasis (delays are not unusual).

noon, :48 phoner, reporter Carmody. Open to begin.

evening news, 1:00 phoner, reporter Carmody. State's open v. defense plan of self-defense.

September 28, 1989

7:35 a.m., 1:10, reporter Carmody. Opening arguments & defense strategy.

8:35 a.m., :40. Inc. State witness Tony Ramsey testimony and :09 defense attorney De Thomasis responds.

noon, 1:04 phoner, reporter Carmody. Ramsey testimony & response.

evening news, 1:05, reporter Carmody. State case, one juror excused.

September 29, 1989

6:05 a.m., :51, reporter Carmody. Defense to begin.

8:05 a.m., :50, reporter Carmody. Defense to begin.

noon, 1:05 phoner, reporter Carmody. Defense begins.

evening news, :30, reporter Carmody. Carl Harris acquitted.

WRUF-AM

September 26, 1989

a.m., :30 reporter Foley, phoner, jury selection.

p.m., :30 reporter Melvin, phoner, jury selection.

September 27, 1989

a.m., 1:13, reporter James, trial begins, inc. :10 defense attorney De Thomasis (self-defense) and :23 De Thomasis response to Ramsey testimony.

8:15 a.m., :45, claim is self-defense. Inc. :23 defense attorney De Thomasis response to Ramsey testimony.

September 28, 1989

8:20 a.m., :25, trial continues. Inc. :10 defense attorney De Thomasis (self-defense).

11:06 a.m., :25, trial continues. Inc. :10 defense attorney De Thomasis (self-defense) prosecutor refuses comment.

p.m., :30, trial continues. Inc. :10 defense attorney De Thomasis (self-defense), :10 defense attorney Robert Rush.

September 29, 1989

a.m., :20, reporter Benjamin. State presenting case, State already played tapes.

a.m., :50, medical examiner testimony. Inc. :10 defense attorney De Thomasis response, juror replaced yesterday.

a.m., :20, juror replaced yesterday, trial continues.

p.m., :40, Carl Harris acquitted. Inc. :17 Pierre Harris defense attorney De Thomasis responds.

7:06 p.m., 1:00, "jury is deliberating." Inc. :15 defense attorney De Thomasis (glad jury is taking its time).

8:20 p.m., :20, jury expected to hand down verdict "Monday morning."

September 30, 1989

a.m., 1:10, Carl Harris acquitted. Inc. :32 defense attorney De Thomasis responds, jury reconvenes this morning.

noon, :40, trial continues, Carl Harris acquitted. Inc. :17 defense attorney De Thomasis (looks good for Pierre).

1:06 p.m., :40, trial continues, Carl Harris acquitted. Inc. :17 defense attorney De Thomasis (looks good for Pierre).

p.m., :40, jury deliberating, inc. :04 Judge Cates comments.

p.m., :50, Pierre Harris acquitted, inc. :13 Judge Cates comments.

October 1, 1989

a.m., :50, both brothers acquitted, inc. :13 Judge Cates comments.

Florida v. Spikes

Gainesville Sun

September 13, 1989, 1 B+, "Trial set in grandfather's burning death," Mitch Stacy, backgrounder.

September 15, 1989, 1 B, "Spikes' murder trial postponed." Brief, trial postponed due to defense attorney's "family emergency."

October 4, 1989, 1 B, "Trial scheduled in burning death." Brief, backgrounder.

October 5, 1989, 1 B+, "Trial delayed in burning death," Mitch Stacy. State's case, continuation due to defense motion, in order to subpoena witness thought would have been subpoenaed by state. Aunt's testimony, grandfather's accusation. Includes three-column photo of defendant and attorney in court.

October 12, 1989, 1 B+, "Man sentenced to life in prison: Grandson guilty of murder, arson," Ana Acle. Sentence, rereading of witness Cobb testimony for jury, defendant's testimony implicating aunt. Includes three-column photo of defendant in court.

Florida Times-Union

October 5, 1989, 1 B+, "Man's lost love cited in grandfather's death," Larry Schnell. State's case, continuation. Mentions hostile exchange with aunt regarding death of father, "not clear" whether witness knew death of defense attorney's father had caused earlier trial postponement.

October 12, 1989, 1 B+, "Jury convicts man of setting fatal fire," Larry Schnell. Sentence. (No mention of defendant testimony or rereading of testimony for jury.)

WUFT-TV

October 4, 1989, evening news. 1:20, reporter Mader. Opening arguments. Included reporter on location of crime scene, sound bite with prosecutor, interview with neighbor.

October 11, 1989, evening news, 2:00, reporter Mader. Phoner from courthouse over video of defense, includes sentence.

WUFT-FM

October 3, 1989

evening news, :45, reporter Carmody, jury selection complete.

October 4, 1989

6:35 a.m., :30, background. Includes :13 sound bite with prosecutor Tobin re strategy.

7:35 a.m., :30, background. Includes :14 sound bite with prosecutor Tobin re strategy.

noon, :45 phoner, reporter Oliver, aunt's testimony.

evening news, :30 phoner, reporter Carmody, aunt's testimony.

October 5, 1989

6:05 a.m., :30, explains delay. Inc. :17 sound bite prosecutor Tobin, aunt's testimony.

8:05 a.m., :45, explains delay. Inc. :10 sound bite prosecutor Tobin, aunt's testimony.

October 10, 1989

evening news, 1:15, reporter Carmody, recap.

October 11, 1989

noon, 1:00 phoner, reporter Carmody, defense witness, defendant's testimony.

evening news, 1:00 phoner, reporter Carmody, closing arguments, jury is deliberating.

evening news, break-in: :20, verdict in.

October 12, 1989

a.m., 1:00, wrap-up, inc. :16 sound bite defense attorney Wehlburg, appeal.

a.m., 1:00, wrap-up, inc. :24 sound bite defense attorney Wehlburg, appeal.

a.m., :40, reporter Carmody, wrap-up.

WRUF-AM

October 4, 1989

5:00 p.m., :40, reporter Cohen. State case, inc. :08 sound bite with prosecutor Tobin re delay.

p.m., :20, delay.

October 5, 1989

8:15 a.m., :40, delay, inc. :12 sound bite with prosecutor Tobin re delay.

8:20 a.m., :15, delay.

a.m., :25, delay, expert witness unavailable.

October 11, 1989

5 p.m., 1:00 phoner, reporter Chavison, jury is deliberating.

p.m., :40, verdict, inc. :14 sound bite defense attorney Wehlburg re appeal.

8:47 p.m., :50, verdict, inc. :16 sound bite defense attorney Wehlburg re appeal.

p.m., :40, wrap-up, inc. : 14 sound bite defense attorney Wehlburg re appeal.

October 12, 1989

a.m., :30, wrap up.

Florida v. Stanley

Gainesville Sun

December 5, 1989, P 1 B+, "Hawthrone mechanic's murder: Judge clears way for trial," Mitch Stacy. Jury selection begins this morning. Mentions side issue: legality of State Attorney's status due to failure to be registered to vote in district prior to appointment.

December 7, 1989, P 1 B+, "Mechanic's murder trial begins," Mitch Stacy & Tom Lyons, (two-column photo defendant Stanley & attorney). First day of trial. Body found nine days after Labor Day murder. Stanley calmly ate dinner after shooting

ex-coworker over debt he came to collect, ex-wife says Stanley is not prone to violence.

December 8, 1989, P 1 B+, "Suspect: It was in self-defense," Mitch Stacy. Stanley testifies Pippins threatened him with a sawed-off shotgun. Mentions side issue: repeated attempts of defense (former prosecutor) to claim state attorney violates rules by failing to disclose information.

December 8, 1989, P 1 B (brief): Judge tells jurors they are eating lunch at taxpayers' expense, not clear whether suggesting they order hamburgers or steak.

December 9, 1989, P 1 B+, "Worker gets 15 years in killing," Mitch Stacy. Despite pleas for leniency due to poor health; ex-wife weeps. Last sentence: "Stanley said he wanted the case to go to jury because he could not justify putting himself in jail for a crime he felt he did commit, said McMahon."

December 12, 1989, P 1 B "Correction": "[T]he last sentence of a story in Saturday's Sun about a murder trial verdict should have read: '(Defendant Charlie) Stanley said he wanted the case to go to jury because he could not justify putting himself in jail for a crime he felt he did not commit said (defense attorney Gregory) McMahon.' The second 'not' was inadvertently left out of Saturday's story."

WUFT-TV

December 5, 1989, evening news, 1:30, voice over video (courtroom), trial begins tomorrow, inc. :14 bite with prosecutor Carlin and :14 defense attorney McMahon.

December 6, 1989, evening news, 1:00, voice over video (courtroom yesterday), jurors will hear confession tape.

December 7, 1989, evening news, 1:30, voice over video (courtroom), confession played, another coworker's testimony controversial, inc. :14 bite with prosecutor Carlin and :14 defense attorney McMahon.

December 8, 1989, evening news, 1:15, voice over video (courtroom), verdict and sentence.

WUFT-FM

December 5, 1989, noon, 1:00, reporter Carmody, jury selection begins, judge rejects all defense motions.

December 5, 1989, evening news, 1:00, reporter Carmody, trial begins tomorrow.

December 6, 1989, morning news, 1:00, reporter Carmody, trial begins, expected to take two days.

December 6, 1989, noon, 1:00, reporter Carmody, investigators' testimony this morning.

December 6, 1989, evening news, 1:00, reporter Carmody, jury saw gruesome slides, Stanley covered his eyes.

December 7, 1989, morning news, 1:00, reporter Carmody, slides, jury may not get case until tomorrow.

December 7, 1989, noon, 1:00, reporter Carmody, tape, confession.

December 7, 1989, evening news, 1:00, reporter Carmody, tape, confession.

December 8, 1989, morning news, 1:00, reporter Carmody, tape, jury will get case today.

December 8, 1989, morning news, 1:00, reporter Carmody, tape, argument over money, sawed-off shotgun.

December 8, 1989, noon, 1:00, reporter Carmody, summation, jury instructions to come and then verdict.

December 8, 1989, evening news, 1:00, reporter Perdomo, verdict & sentence.

WRUF-AM

December 6, 1989

p.m., :35, jury will hear tape, inc. :11 bite with defense attorney McMahon.

p.m., :15, jury will hear tape, McMahon says it's self-defense.

December 7, 1989

a.m., :40, trial continues, inc. :17 bite with defense attorney McMahon.

a.m., :15, slides shown.

noon, 1:00, phoner, reporter Walsh.

3:06, :15, prosecution wrapping up.

p.m., :35, investigators' testimony, taped confession played.

11:06, :30, inc. :07 bite with defense attorney McMahon, Stanley acted in self-defense.

p.m. :30, inc. :05 bite with defense attorney McMahon, no premeditation.

December 8, 1989

a.m., :25, inc. :05 bite with defense attorney McMahon, no premeditation.

a.m., :20, self-defense, jury heard taped confession yesterday.

a.m., :35, inc. :15 bite with defense attorney McMahon, gun evidence is unrelated to crime.

a.m., :35, inc. :15 bite with defense attorney McMahon re gun evidence.

a.m., :35, inc. :13 sound bite with prosecutor Carlin, evidence doesn't add up to self-defense.

a.m., :15, recaps Carlin's statement.

p.m., :30, jury is deliberating.

p.m., :30, reporter Benjamin, verdict & sentence.

p.m., :40, inc. :18 bite with prosecutor Carlin, case was awkward.

8:06, :25, inc. :10 bite with defense attorney McMahon re appeal.

9:06, :30, inc. :15 bite with prosecutor Carlin, sentence necessary.

10:06, :15, verdict & sentence, recaps McMahon & Carlin.

11:06, :35, inc. :17 bite with defense attorney McMahon re appeal.

December 9, 1989

a.m., :30, inc. :15 bite with defense attorney McMahon re appeal.

a.m., :30, inc. :17 bite with defense attorney McMahon re appeal.

11:06, :30, inc. :15 bite with prosecutor Carlin, sentence necessary.

a.m., :30, inc. :15 bite with defense attorney McMahon, trial unfair.

APPENDIX D
SELECTED ARTICLES AND SCRIPTS

The selection includes the following for coverage of trials observed:

- all of the newspaper articles which included photographs
- all of the television scripts
- any newspaper articles or television or radio scripts which for any reason were specifically referred to in the study

(All broadcast scripts are retyped; originals on file.)

MARK DOLAN/ The Gainesville Sun

Samuel Edward Simmons, 19, left, on trial for the murder of a Newberry man, sits next to his attorney, Craig DeThomasis, during testimony Thursday in circuit court.

Teen says plan to 'intimidate' ended in man beaten to death

By CONNIE BOUCHARD
Sun staff writer

Nineteen-year-old Samuel Edward Simmons masterminded a plan last May in which he and three other teen-agers would "intimidate" a 25-year-old Newberry man, but he wound up beating the man to death, two of the teens testified Thursday in Simmons' first-degree murder trial.

"The whole thing was like a set-up," said Michael Williams, 17, of the fatal May 1988 visit to the home of David Horne.

Armed with knives and a wooden ax handle, the teenagers were out to "get" Horne for a disgruntled friend, Williams and 16-year-old Chris Burger testified Thursday.

The trial, in which Simmons is also charged with burglary, is expected to end today. It resumes at 9 a.m.

Williams, Burger and 19-year-old Melissa Delk were arrested with Simmons a day after the May 17, 1988, attack on Horne.

Williams and Burger testified that they accompanied Simmons just days after they overheard him talking about getting even with Horne.

See BEATEN on page 7A

MARK DOLAN/ The Gainesville Sun

Chris Burger, an admitted accomplice in the murder of David Horne, testified against Samuel Simmons Thursday.

BEATEN

Continued from page 1A

Burger said he heard Simmons tell another teen-ager, "I'm going to get him."

And Simmons told the same person after the slaying, "You don't have to worry about David no more because I done taken care of him," Williams testified.

The night of May 17, the youths went to "intimidate" Horne at the behest of Simmons, said Williams, who has pleaded guilty to second-degree murder in the case and is awaiting sentencing.

"He told us he had business to take care of with David," Williams testified.

While the group talked and smoked marijuana inside Horne's house, Simmons snuck up behind Horne and attacked him with a five-pound window sash weight, Williams said. "Sam took the pipe and hit him," Williams testified. "Blood rushed out of his head."

Simmons continued to hit Horne, who was screaming for help, Williams said.

Burger testified earlier that he did not actually see the beating, but could hear it after he saw Simmons pick up the weight from Horne's bedroom floor and begin to swing it.

"I froze. I didn't really do anything," Burger testified through tears.

Prosecutors said Thursday that revenge was the motive for the slaying. They claimed that Simmons was trying to avenge a friend who unknowingly bought a stolen engine from Horne.

"His friend was on probation and possession of stolen property jeopardized his freedom," prosecutor Gloria Fletcher said.

And after his arrest on murder charges, Simmons bragged to a cellmate about the killing, Fletcher said.

"Sam is proud. He has carried out his plan. He has done what he set out to do," she said.

But defense attorney Craig DeThomasis argued there was no evidence that Simmons planned to murder Horne that night.

"What you will hear is there was a plan to intimidate or hurt," DeThomasis said, "There was never a plan to kill."

If anyone had a motive for the slaying it would be Williams, who had a grudge against Horne, he said.

DeThomasis also questioned the motives of Thursday's witnesses, noting that Williams is awaiting sentencing and Burger has not gone to trial.

WCJB-TV
Slug: SIMMONS.A-3
Date: 02/16//89 PB/BOX

(PAIGE)
A MURDER TRIAL WILL CONTINUE TOMORROW MORNING IN ALACHUA COUNTY CIRCUIT COURT FOR AN 18 YEAR OLD ARCHER RESIDENT ACCUSED OF MURDER.

PROSECUTORS CLAIM SAMUEL EDWARD SIMMONS COERCED THREE FRIENDS TO HELP HIM TO KILL DAVID HORNE OF NEWBERRY.

THE MURDER HAPPENED MAY 18TH LAST YEAR.

INVESTIGATORS SAY HORNE WAS BLUDGEONED TO DEATH WITH A WOODEN HANDLE.

DEFENDANTS IN THE CASE.. MICHAEL WILLIAMS AND CHRIS BURGER TESTIFIED TODAY. HOWEVER, THE THIRD DEFENDANT MELISSA DELKS WHO HAS NOT BEEN CHARGED..WILL NOT TESTIFY BECAUSE SHE'S RECOVERING FROM SURGERY.

WCJB-TV
Slug: SIMMONS A-1
Date: 2/17/89
BOB-WMS. CLOSE UP

GOOD AFTERNOON EVERYONE. THE PROSECUTION HAS RESTED ITS CASE IN THE TRIAL OF SAMUEL SIMMONS.

THE 19-YEAR OLD IS ACCUSED OF BEATING 25-YEAR OLD DAVID HORNE OF NEWBERRY TO DEATH.

DURING TESTIMONY THIS MORNING CHARLES BENTON WHO SHARED A CELL WITH SIMMONS AT THE COUNTY JAIL SAID SIMMONS TOLD HIM HE BEAT A MAN OVER THE HEAD.

LATER AN OFFICIAL WITH THE MEDICAL EXAMINER'S ISSUED A STATEMENT ON VIDEO TAPE.

HE VERIFIED HORNE WAS KILLED FROM SEVERAL BLOWS TO THE HEAD.

SIMMONS WAS ALLEGEDLY THE MASTER-MIND BEHIND A PLOT TO BEAT UP HORN FOR A FRIEND WHO WAS ANGRY AT HORN.

THE DEFENSE IS EXPECTED TO BEGIN ITS CASE LATER THIS AFTERNOON AND BE FINISHED BY THREE O'CLOCK.

WCJB-TV
Slug: SIMMONS A-2
Date: 2/17/89 PB/BOX

(PAIGE)
AN ALACHUA COUNTY JURY IS DELIBERATING AT THIS HOUR IN THE FIRST DEGREE MURDER TRIAL OF SAMUEL SIMMONS. THE 18 YEAR OLD ARCHER MAN IS CHARGED IN THE BEATING DEATH OF 25 YEAR OLD DAVID HORNE OF NEWBERRY.

STATE ATTORNEY HARRIS TOBIN SAID SIMMONS OWN TESTIMONY PROVED HE WAS LYING. SIMMONS ATTORNEY CRAIG DE THOMASIS SAID MOST OF THE EVIDENCE IS CONFLICTING AND HE WANTS THE CHARGE TO BE REDUCED TO SECOND DEGREE MURDER.

HORNE WAS BLUDGEONED TO DEATH IN MAY OF LAST YEAR WITH A WOODEN HANDLE.

WCJB-TV
Slug: SIMMONS A-2
Date: 2/17/89

LUCAS BOX

(JOHN)
AN 18-YEAR OLD ARCHER MAN HAS BEEN FOUND GUILTY TONIGHT OF THE BEATING DEATH OF DAVID HORNE OF NEWBERRY.

AFTER A COUPLE OF HOURS OF DELIBERATING . . . AN ALACHUA COUNTY JURY RETURNED FOUND SAMUEL SIMMONS GUILTY OF FIRST DEGREE MURDER AND BURGLARY WITH ASSAULT.

SIMMONS HAS BEEN SENTENCED TO LIFE IN PRISON . . . BUT, WILL BE ELIGIBLE FOR PAROLE IN 25 YEARS.

HE ALSO RECEIVED A 40 YEAR SENTENCE FOR THE BURGLARY CONVICTION.

WUFT-TV
February 15, 1989
5:30 News

On talent Key graphic: Jury Selection	JURY SELECTION IS UNDERWAY FOR THE TRIAL OF AN ACCUSED MURDERER FROM ARCHER.
VO/Video (Simmons, courtroom)	SAMUEL SIMMONS FACES FIRST-DEGREE MURDER CHARGES IN CONNECTION WITH THE BEATING DEATH OF NEWBERRY RESIDENT DAVID HORNE LAST MAY. SIMMONS AND ANOTHER MAN, ANTHONY WILLIAMS, ARE CHARGED WITH HORNE'S MURDER. LAST MONTH WILLIAMS PLEADED GUILTY TO SECOND-DEGREE MURDER AND WILL BE SENTENCED LATER THIS MONTH. SIMMONS' TRIAL IS SET TO START THURSDAY. HORNE'S BODY WAS FOUND AT (HIS HOME IN MAY).
C:Alachua County Courthouse Gainesville	

WUFT-TV
February 16, 1989
5:30 News

On talent Key graphic: Simmons Trial	TWO PEOPLE TESTIFIED TODAY THAT AN ARCHER MAN MASTERMINDED THE DEATH OF A 25-YEAR-OLD NEWBERRY MAN. SAMUEL EDWARD SIMMONS FACES FIRST-DEGREE MURDER CHARGES FOR THE BLUDGEONING DEATH OF DAVID HORNE LAST MAY.
VO/Video (Simmons, court) C: Alachua Co. Courthouse Gainvesville	THE JURY TODAY HEARD TESTIMONY FROM TWO TEENAGERS WHO SAY THEY WERE IMPLICATED IN THE MURDER. SIXTEEN-YEAR-OLD CHRIS BURGER AND SEVENTEEN-YEAR-OLD MICHAEL WILLIAMS SAY SIMMONS PLANNED THE MURDER AND HELPED BEAT THE VICTIM TO DEATH. BUT THE DEFENSE SAYS THE JURY SHOULDN'T BELIEVE THEIR TESTIMONY. PUBLIC DEFENDER CRAIG DE THOMASIS SAYS THE STATE ATTORNEY HAS LESSENED THE CHARGES AGAINST THE TEENAGERS, AND BECAUSE OF THAT, THEY'RE JUST TRYING TO KEEP THEMSELVES OUT OF TROUBLE.
SOT De Thomasis C: Public Defender	"It certainly would help their cases, and it's obvious that I think the jury should consider that when deciding whether these people are creditable or not.
SOT Tobin C: State Attorney	"One person was charged according to what we felt the evidence showed was their involvement in the crime."
VO/Video (Simmons, court)	MICHAEL WILLIAMS PLEADED GUILTY TO SECOND-DEGREE MURDER CHRIS BURGER, ORIGINALLY CHARGED AS AN ACCESSORY TO THE MURDER, NOW ONLY FACES BURGLARY CHARGES.

WUFT-TV
February 17, 1989
5:30 News

On talent Key graphic: Simmons Trial	THE JURY IS DECIDING IF EDWARD SAMUEL SIMMONS IS GUILTY OF FIRST-DEGREE MURDER IN THE DEATH OF DAVID HORNE.
C: Kathy Orendorff	THE STATE CLAIMS SIMMONS LED A GROUP OF THREE TEENS LAST MAY TO HORNE'S HOME IN NEWBERRY. TWO OF THE TEENS, CHRIS BURGER AND MICHAEL WILLIAMS, TESTIFIED AGAINST SIMMONS. WILLIAMS STRUCK A DEAL BY PLEADING GUILTY TO SECOND-DEGREE MURDER, BUT THE DEFENSE SAYS HE IS REALLY THE ONE WHO KILLED HORNE.
VO/Video (Simmons, court)	TESTIFYING IN HIS OWN DEFENSE, SIMMONS SAYS HE PLANNED TO "JUST BEAT UP" HORNE, BUT ADMITTED HE HIT HORNE TWICE ON THE HEAD WITH A LEAD PIPE. JURORS MUST DECIDE SIMMONS DELIBERATELY PLANNED TO KILL HORNE AND ACTED ALONE IN ORDER TO GIVE A FIRST-DEGREE MURDER DECISION.

WUFT-TV
February 20, 1989
5:30 News

On talent Key graphic: Simmons Sentenced	AND ANOTHER SENTENCE--THIS ONE MORE SEVERE. A MAN FOUND GUILTY OF MURDERING A NEWBERRY MAN WILL SPEND AT LEAST 25 TO 40 YEARS BEHIND BARS.
VO/Video (Simmons, court)	A JURY DECISION FRIDAY HAS EDWARD SAMUEL SIMMONS SERVING A JAIL SENTENCE FOR THE MURDER OF DAVID HORNE LAST MAY. SIMMONS GETS LIFE IMPRISONMENT FOR THE FIRST-DEGREE MURDER CONVICTION. HE HAS ANOTHER 40-YEAR TERM WITH THE DEPARTMENT OF CORRECTIONS FOR BURGLARY WITH ASSAULT. FRIDAY, THE JURY DECIDED SIMMONS ACTED ALONE AND DELIBERATELY PLANNED TO KILL HORNE.

WUFT-TV
Williams Sentence
Kathy VO
3/6/89

KATHY

SEVENTEEN YEAR OLD ANTHONY WILLIAMS WILL SPEND FOUR YEARS IN JAIL FOR THE SECOND DEGREE MURDER OF DAVID HORNE.

WILLIAMS PARENTS STOOD BY HIM DURING THE SENTENCING THIS AFTERNOON. THE JUDGE DECIDED TO SENTENCE WILLIAMS UNDER ADULT GUIDELINES . . . BUT AS A YOUTHFUL OFFENDER

THAT MEANS HE'LL SERVE TIME IN AN ADULT PRISON

BUT THE MAXIMUM SENTENCE IS FOUR YEARS IN JAIL AND TWO YEARS IN COMMUNITY CONTROL

THE DEFENSE SAYS THAT WILL ALLOW WILLIAMS TO TAKE PART IN A REHABILITATION PROGRAM.

WUFT-FM
BROWN
Simmons Trial
2/16/88

SAMUEL EDWARD SIMMONS IS ON TRIAL FOR THE FIRST DEGREE MURDER IN AN ALACHUA COUNTY COURT HOUSE. HE IS ACCUSED OF PLANNING THE DEATH OF DAVID HORN. STATE ATTORNEYS ARE TRYING TO PROVE SIMMONS LEAD THREE OTHER TEENAGERS TO HORN'S NEWBERRY AREA HOME TO HELP HIM WITH THE KILLING. THE JURY HAS SEEN BLOODY SHEETS FROM HORN'S ROOM ALONG WITH WHAT THE STATE CLAIMS IS THE MURDER WEAPON. IT'S BEEN DESCRIBED AS A TWO-FOOT METAL OBJECT. STATE ATTORNEY HARRIS TOBIN SAYS THE JUDGE NOT ALLOWING ALL EVIDENCE IN THE COURTROOM.

CART TOBIN :15 ". . . win or lose at this point"

THE DEFENSE ATTORNEY IS CRAIG DE THOMAS. HE IS A PRIVATE ATTORNEY ASKED BY THE COURT TO DEFENSE SIMMONS. HE CLAIMS THE STATE'S DEAL MAKING WITH A KEY WITNESS TO THE MURDER IS UNFAIR TO HIS CLIENT

CART

THE TRIAL IS EXPECTED TO LAST ONLY TWO DAYS. ATTORNEYS SAY IT SHOULD GO TO THE JURY TOMORROW AFTERNOON.

WRUF-AM
2/16/89
MICHELSON

2nd VOICER

THE TRIAL OF SAMUEL SIMMONS IS IN PROGRESS IN THE ALACHUA COUNTY COURTHOUSE. EIGHTEEN-YEAR-OLD SIMMONS IS ACCUSED OF MURDERING DAVID HORNE BY BEATING HIM WITH A METAL WEIGHT LAST MAY. THREE OTHER TEENAGERS WERE PRESENT THE NIGHT OF THE MURDER. ONE WAS 17-YEAR-OLD MICHAEL WILLIAMS. WILLIAMS PLED GUILTY OF SECOND DEGREE MURDER OF DAVID HORNE AND HE IS NOW WAITING TO BE SENTENCED. WILLIAMS IS A FORMER CLASSMATE OF SIMMONS. ON THE NIGHT OF THE MURDER WILLIAMS THOUGHT THE TEENS WERE GOING TO THE MOVIES BUT INSTEAD THEY WENT TO THE HOME OF DAVID HORNE. SOC

WRUF-AM
2/16/89

3rd VOICER

IN SAMUEL SIMMONS MURDER TRIAL, 17 YEAR OLD MICHAEL SIMMONS TESTIFIED HE WAS PRESENT THE NIGHT DAVID HORNE WAS KILLED. WILLIAMS SAYS HE WENT OUT WITH SIMMONS INTENDING TO GO TO THE MOVIES. INSTEAD THEY WENT TO DAVID HORNE'S HOME IN NEWBERRY. WILLIAMS SAYS EARLIER THAT DAY HORNE HAD PULLED A GUN ON WILLIAMS, HIS FRIEND, AND HIS SIX YEAR OLD BROTHER. WILLIAMS HAS PLED GUILTY TO SECOND DEGREE MURDER AND IS AWAITING SENTENCING. WILLIAMS TESTIFIED HE SAW SIMMONS BEAT HORNE WITH A WOODEN AXE. IN EXCHANGE FOR HIS PLEA TO SECOND DEGREE MURDER AND HIS TESTIMONY AT SIMMONS' TRIAL WILLIAMS WILL BE SENTENCED AS A JUVENILE OFFENDER. SOC

WRUF-AM
NOON SAT 18
LIFE SENTENCE

A NEWBERRY TEENAGER WILL BE SPENDING A LONG TIME IN PRISON. JURORS FOUND SIMMONS GUILTY OF FIRST DEGREE MURDER IN THE BLUDGEONING DEATH OF DAVID HORNE. SIMMONS TESTIFIED--HIS FRIENDS AND HE WENT TO HORNE'S HOUSE TO INTIMIDATE HIM WITH AN AX HANDLE AND SOME KNIVES. HOWEVER, WITNESSES SAY SIMMONS WOUND UP BEATING HORNE TO DEATH. SIMMONS'S ATTORNEY CRAIG DE THOMASIS SAYS SIMMONS'S ACTIONS WERE NOT PREMEDITATED AND HE'LL APPEAL THE FIRST DEGREE MURDER DECISION.

FRI 30 DE THOMASIS :10 . . . OF FIRST DEGREE

SIMMONS WAS GIVEN A LIFE SENTENCE--PLUS FOUR YEARS FOR BURGLARY--AND WILL BE ELIGIBLE FOR PAROLE IN 25 YEARS.

Murder trial set to begin

By MITCH STACY
Sun staff writer

Two brothers from Gainesville will stand trial beginning Tuesday for the murder last October of a 21-year-old man.

Carlton Lorenzo Harris, 30, and Pierre Cullen Harris, 29, were charged with first-degree murder in connection with the Oct. 24, 1988, stabbing death of Irving Eugene Lawrence, who lived in an apartment at 1900 SE 4th St. An argument over money apparently led to a confrontation between Lawrence and the Harris brothers late that October evening, police said.

The two brothers will be tried together

Lawrence was found by police lying in a vacant lot on NE 1st Avenue with a stab wound to the chest after someone who lived in the area called authorities about hearing a gunshot, police said.

Lawrence was pronounced dead on arrival at Alachua General Hospital early the next morning.

Pierre Harris was arrested at Gainesville police headquarters hours after the stabbing, police said. He came there for questioning in response to a request from police detectives.

Carlton Harris was located at the county jail Oct. 26, 1988. He had turned himself in the day before for unrelated warrants that included violation of parole. Carlton Harris has a history of 12 felony arrests, includ-

See TRIAL on page 2B

TRIAL

Continued from page 1B

ing a 1981 conviction for aggravated assault.

Police detectives said they talked to witnesses who saw an argument late that evening between Lawrence and the Harris brothers. A long, folding knife was recovered and is believed to be the murder weapon. Police never determined the origin of the gunshot heard by the neighbor.

The Harris brothers will be tried together and will be represented by Gainesville lawyers Craig DeThomasis and Robert Rush.

Assistant State Attorney Margaret M. Stack will try the case before Circuit Judge Robert P. Cates. Jury selection is set to begin Tuesday morning.

The Gainesville Sun
Thursday, September 28, 1989**

SPENCER WEINER

Pierre Harris, left, and his brother, Carlton, far right, sit as their defense attorneys, Craig DeThomasis, wearing glasses, and Robert Rush, confer in court Wednesday. The Harris brothers are standing trial for the murder of 21-year-old Irving Lawrence last year.

Brothers in murder trial plead self-defense

By MITCH STACY
Sun staff writer

Pierre Harris was defending himself and his brother from the aggressive advances of Irving Eugene Lawrence when he stabbed Lawrence to death in a vacant lot last October, Harris' defense attorney said Wednesday.

Harris, 29, came to the aid of his brother, Carlton Lorenzo Harris, 30, after Lawrence approached and hit the elder Harris in the head with the butt of a pistol and jumped on him, attorney Craig DeThomasis told an Alachua County circuit court jury. Pierre Harris became involved in the scuffle only after a shot was fired and an armed Lawrence backed him up into the vacant lot on NE 1st Avenue.

The Harris brothers both are charged with first-degree murder for the Oct. 24, 1988, death of Lawrence, 21, and are standing trial before Circuit Judge Robert P. Cates.

DeThomasis and attorney Robert A. Rush, who is representing Carlton Harris, will try to show that Lawrence sought out the brothers because they owed him money, and that Pierre Harris pulled his folding pocketknife and stabbed Lawrence in self-defense.

"You will see that his actions were reasonable and justified based on the situation he was facing," DeThomasis said.

"At the end of the trial we're going to be waiting — where is the evidence to support the charge?," he said.

Assistant State Attorney Margaret Stack, however, said that although Lawrence hit Carlton Harris first, it was Harris who pulled the pearl-handled .22-caliber pistol during the scuffle. Pierre Harris then jumped in and stabbed Lawrence twice in the chest, Stack said.

The Harris brothers left the scene, and Lawrence was taken to Alachua General Hospital, where he was pronounced dead on arrival in the emergency room, court records said.

DeThomasis and Rush spent much of the afternoon Wednesday trying to discredit the state's primary witness, Tony Ramsey, who was with Lawrence that night and witnessed the fight.

Ramsey said he and Lawrence left a nearby bar to look for the Harris brothers and encountered them near a friend's

See TRIAL on page 2B

TRIAL

Continued from page 1B

house on NE 1st Avenue. While he admitted that Lawrence hit Carlton Harris first, Ramsey testified that Lawrence was not carrying a gun. The gun, he said, was in Carlton Harris' hand during the fight.

The defense attorneys grilled Ramsey on details of the evening, pointing out several discrepancies between his testimony and on-the-record statements he gave to the attorneys in June.

The defense attornevs also pointed out that the Harris brothers cooperated fully with police investigating the case and even kept the blood-stained clothing and turned it over to police when asked.

DeThomasis and Rush were assigned by the court to represent the Harris brothers because of a conflict-of-interest situation involving the public defender's office. The office that provides lawyers to represent defendants who cannot afford to hire an attorney has in the past represented some witnesses who will be called by state attorneys to testify in the trial. Because of that, public defenders did not want to become involved in the Harris' defense.

Included in Pierre Harris' case file are a number of letters from friends and acquaintances attesting to his good character. Among them is a letter from Jean Chalmers, a former Gainesville city commissioner and candidate for state representative, who wrote that she knows Harris' mother and has never heard of Pierre Harris causing any trouble.

If convicted of first-degree murder, the Harris brothers could be sentenced to life in prison. State attorneys must prove premeditation to get a first-degree murder conviction.

The trial was to continue at 8:30 this morning at the Alachua County courthouse.

The Gainesville Sun, Friday, September 29, 1989

Murder trial focus shifts to weapons

By MITCH STACY
Sun staff writer

The focus of the murder trial of two Gainesville brothers turned to weapons as the trial entered its third day Thursday.

Experts testified that they were unable to determine who held a .22-caliber pistol on the night Irving Eugene Lawrence was stabbed to death during a scuffle in the street last October, a fact on which the state's case may hinge.

Carlton Lorenzo Harris, 30, and Pierre Cullen Harris, 29, are standing trial in Alachua County in connection with the October 24, 1988, death of Lawrence, 21.

Attorneys for the Harris brothers are contending that Pierre Harris acted in defense of himself and his brother when he stabbed Lawrence twice in the chest during a scuffle in a vacant lot on NE 1st Street.

Lawrence approached the brothers in the street and struck out at Carlton Harris, hitting him in the head with the butt of a handgun, the attorneys say. Pierre jumped in the fight after a shot was fired, and then Lawrence turned on him.

Assistant state attorneys Margaret Stack and Phyllis Kotey contend that it was Carlton Harris who had the pistol and, during the scuffle, held Lawrence so his brother could stab him.

But who actually held the pearl-handled pistol during the struggle and who fired the single errant shot is unclear. A Florida Department of Law Enforcement laboratory technician testified that the residue taken from Lawrence's hands did contain sufficient traces of gunpowder to conclude that he definitely fired the shot.

Also, testimony revealed that the pistol was handled by a man who found it on the ground and by at least one police officer, effectively wiping away any fingerprints that could have been used to tell who held the gun.

A man who was with Lawrence that night as he sought the brothers previously testified that Carlton Harris held the gun during the struggle.

Medical Examiner William F. Hamilton testified that wounds to Lawrence's body could have been inflicted by a crouching Pierre Harris stabbing the other man above him. Defense attorneys contend that Lawrence was on top of Harris when Harris struck out in self-defense.

The brothers could both face life in prison if convicted of first-degree murder. State attorneys must prove premeditation to get a conviction of first-degree murder.

The trial continues today before Circuit Judge Robert P. Cates.

Courtroom jubilation

Brother innocent of death

By FATAIMA AHMAD
Sun correspondent

A circuit court jury found Pierre Cullen Harris innocent of first-degree murder Saturday afternoon, and his friends and family burst into tears and prayer.

"Oh, thank God!" one woman said. "Thank you, Jesus!"

Pierre Harris, 29, and his brother, Carlton Lorenzo Harris, 29, were both standing trial in connection with the Oct. 24, 1988, stabbing death of Irving Eugene Lawrence, a 21-year-old Gainesville man.

The court dismissed first-degree murder charges against Carlton Harris Friday when the state failed to prove Harris had helped Pierre kill Lawrence, Circuit Judge Robert P. Cates said.

"There was more evidence that Elvis is still alive than evidence against these two men," defense attorney Robert A. Rush said after the verdict was announced. Rush represented Carlton Harris.

He and defense attorney Craig DeThomasis, who represented Pierre Harris, worried that the jury might find Harris guilty of a lesser charge, something the state argued for in its closing arguments Saturday morning.

But in the end, "justice was done," DeThomasis said.

DeThomasis' closing arguments remind-

See TRIAL on page 3B

TRIAL

Continued from page 1B

ed the jury that no witnesses saw the stabbing.

But "Pierre Harris tells you what happened," DeThomasis told the jury in his closing argument. "He told the police everything that happened. The man told them everything because he's innocent. He did no wrong."

Lawrence came upon the brothers at NE 1st Avenue in Gainesville, hit Carlton Harris in the head with the butt of a pistol and jumped him, the brothers testified in court Friday.

Pierre Harris joined the struggle after a shot was fired and he feared his brother was shot, Pierre testified Friday. When he tried checking on Carlton, Lawrence swung the pistol on him.

An armed Lawrence then backed Pierre Harris into the vacant lot where Pierre Harris pulled a folding knife from his back pocket and stabbed Lawrence in self-defense, Pierre Harris testified Friday.

Pierre Harris testified Friday that Carlton Harris grasped Lawrence around the chest and helped him from underneath the body.

"Half or most of the state's evidence *supports* what Pierre Harris said," including Carlton Harris' blood-stained jacket, DeThomasis said.

The state's closing argument focused on the blood smears along the left sleeve of that jacket as the proof of their theory: Carlton Harris had Lawrence in a headlock while Pierre Harris intentionally stabbed him.

If Carlton Harris had helped his brother from underneath Lawrence's body after Lawrence was stabbed there should have been blood stains on both arms, Assistant State Attorney Margaret Stack said.

The jacket, DeThomasis rebutted, had blood stains only on the left arm because when Carlton Harris bent and lifted Lawrence's body, his left arm was over Lawrence's punctured heart.

The jury deliberated about two hours before reaching its verdict and ending the five-day trial.

WUFT-TV
Slug: HARRIS BROS TRIAL
Date: 9/26

SHARI

TWO GAINESVILLE BROTHERS FACING FIRST DEGREE MURDER CHARGES APPEARED IN COURT THIS AFTERNOON. . . .

THEY'RE BOTH ACCUSED OF KILLING A TWENTY-ONE YEAR OLD GAINESVILLE MAN.

AS NEWS FIVE'S LAURA MCELROY TELLS YOU . . . THE COURT HOPES TO FINISH JURY SELECTION TOMORROW AND GET THE TRIAL UNDERWAY.

PKG SOC

(PKG SOC)

McElroy vo/video (brothers & attys) C: Alachua Co. Courthouse Gainesville	WITNESSES SAY THEY SAW CARL AND PIERRE HARRIS ARGUING WITH IRVING LAWRENCE ON THE NIGHT OF OCTOBER 24TH, LAST YEAR. DEFENSE ATTORNEYS SAY THE DISPUTE WAS OVER MONEY. THEY CLAIM THE ARGUMENT BROKE INTO VIOLENCE ONLY WHEN LAWRENCE BECAME AGGRESSIVE. THEY SAY THE STABBING WAS SELF-DEFENSE.
(Craig De Thomasis) C: Craig De Thomasis Defense Attorney	"There's been an incident where, uh . . . a person who ends up dying was an aggressor, was armed, and was coming at both Pierre Harris and his brother.
On McElroy (On location: empty lot) (VO/court, defense attys brother jury)	IT WAS IN THIS VACANT LOT ON NORTHEAST FIRST AVENUE THAT POLICE FOUND LAWRENCE. HE WAS STILL ALIVE BUT STABBED IN THE CHEST. LATER THAT MORNING HE DIED AT ALACHUA GENERAL HOSPITAL. THE PROSECUTOR WILL NOT COMMENT ON THE CASE, BUT THE DEFENSE CLAIMS SEVERAL PROSECUTION WITNESSES WERE UNDER THE INFLUENCE OF DRUGS, OR HAVE CRIMINAL RECORDS OF THEIR OWN. IF CONVICTED, THE BROTHERS COULD FACE LIFE IMPRISONMENT OR THE DEATH PENALTY. THE DEFENSE ATTORNEYS HOPE THE JURY WILL SEE THE HARRIS BROTHERS' ACTIONS ON THAT OCTOBER EVENING NOT AS MURDER, BUT AS SELF-DEFENSE. LAURA McELROY, NEWS 5

WUFT-TV
Slug: HARRIS MURDER
TRIAL
Date: 9/27

AMY

JURY SELECTION IS COMPLETE . . . AND THE TRIAL OF TWO GAINESVILLE BROTHERS ACCUSED IN THE STABBING DEATH OF A TWENTY-ONE YEAR OLD MAN LAST YEAR . . . IS UNDERWAY.

SHARI

CARLTON HARRIS AND PIERRE HARRIS ARE CHARGED WITH THE FIRST DEGREE MURDER OF IRVING LAWRENCE LAST OCTOBER.

LAWRENCE'S BODY WAS FOUND ON NORTHEAST FIRST AVENUE IN A VACANT LOT.

TESTIMONY THIS AFTERNOON CAME FROM ONE KEY STATE WITNESS . . . TONY RAMSEY.

RAMSEY TESTIFIED HE WAS THERE THE NIGHT THE ALTERCATION TOOK PLACE BETWEEN THE HARRIS BROTHERS AND LAWRENCE.

ALTHOUGH THE STATE CONTENDS PIERRE HARRIS DELIBERATELY AND INTENTIONALLY KILLED LAWRENCE.

THE DEFENSE SAYS THE HARRIS'S WERE ACTING IN SELF-DEFENSE AND SAYS THEY HAVE A STRONG CASE.

CRAIG DE THOMASIS

"There is no proof of that which they charged him with. They . . . They have to establish a premeditated intentional act, and they have absolutely no evidence of that."

(MORE MORE MORE MORE)

PROSECUTING ATTORNEY MARGERET STICK WOULD NOT COMMENT ON CAMERA BUT IN OPENING ARGUMENTS SHE SAID THE MURDER WAS PREMEDITATED.

IF CONVICTED OF FIRST DEGREE MURDER . . . THE HARRIS BROTHERS COULD EACH FACE LIFE IN PRISON.

WUFT-TV
Slug: HARRIS TRIAL
Anchor: GRAHAM
Reporter: DODD
Date: 9/28

GRAHAM
THE HARRIS BROTHERS'S FIRST DEGREE MURDER TRIAL ENTERS DAY TWO.
STATE WITNESSES TOOK THE STAND THIS AFTERNOON TO GIVE AN ACCOUNT OF WHAT HAPPENED THE NIGHT IRVING LAWRENCE WAS STABBED IN A VACANT LOT IN NORTHWEST GAINESVILLE.
LAWRENCE DIED FROM THE STAB WOUND . . . BUT MOST OF THIS AFTERNOON'S TESTIMONY FOCUSED ON A GUN . . . AND WHO WAS CARRYING IT WHEN THE ALTERCATION BEGAN.
DEFENSE ATTORNEYS SAY THIS LINE OF QUESTIONING IS AN ATTEMPT BY THE PROSECUTION TO SHOW CRIMINAL INTENT BY THE HARRIS BROTHERS.
BOTH DEFENSE ATTORNEYS SAY THE BROTHERS ACTED IN SELF DEFENSE . . . AND THAT THE TESTIMONY DOESN'T PROVE PREMEDITATION.

CRAIG DE THOMASIS

C: Craig De Thomasis
Defense Attorney

"The real issue is that it doesn't help theirs at all. Um . . . it has not established any of the elements of the offense that they need to establish. Um . . . and up to this point I have not heard anything that even tends to show what they've charged my client with."

(:17)BITES " . . . CLIENT WITH." :16

THE PROSECUTION REFUSED TO COMMENT ON THE CASE.

(MORE MORE MORE MORE)

PROSECUTORS PUT CRIME SCENE INVESTIGATORS . . . ANALYZERS . . . AND FIRE ARMS EXPERTS ON THE STAND WHO SAID NO GUN RESIDUE WAS FOUND ON THE VICTIM'S HANDS.

THE STATE HOPES TO WRAP UP TESTIMONY TODAY.

THE DEFENSE WILL CALL ITS WITNESSES TOMORROW.

WUFT-TV
Slug: HARRIS MURDER
TRIAL
Anchor: SHARI
Date: 9/29

SHARI
AND A TWIST OF EVENTS IN THE MURDER TRIAL OF THE HARRIS BROTHERS . . . BOTH WERE CHARGED WITH THE STABBING DEATH OF A GAINESVILLE MAN. . . .
THE TRIAL ENTERS ITS FOURTH DAY . . . AND ALREADY A DECISION MADE WHICH COULD TURN IN THE DEFENSE'S FAVOR.
NEWS FIVE'S MIKE CEIDE JOINS US LIVE FROM THE ALACHUA COUNTY COURTHOUSE. . . . MIKE BRING US UP TO DATE ON THE STARTLING DECISION THERE.

1. WELL MIKE . . . HOW IS THE PROSECUTION HANDLING THIS TURN OF EVENTS?

MIKE . . . . VO

Mike Ceide VO/Video
(graph: photo
Mike Ceide
LIVE
Alachua County
Courthouse)

(Video: judge
Carl & atty
Pierre & atty)

courtroom

Tommy Smith

courtroom)

Well, Shari, the number of defendants in the Harris murder trial dwindled to one this afternoon, as Carl Harris was acquitted on his first degree murder charge. Circuit Court Judge Robert Cates dismissed the older of the two brothers, due to insufficient evidence. Defense attorney Craig De Thomasis is trying to paint a picture for the jury that Pierre Harris acted in self-defense in the stabbing murder of 21-year-old Irving Lawrence last October. The defense called on Tommy Smith to re-enact the altercation between Carl Harris and Irving Lawrence. Later, Pierre Harris took the stand in his own defense and testified he felt his and his brother's lives were in danger when he stabbed Lawrence twice in the chest, in an abandoned lot in Northeast Gainesville, almost a year ago. Pierre Harris then recreated the position he was in, as Irving Lawrence was hitting him with the butt of a revolver. The jury will hear closing arguments in the case tomorrow, and, Shari, if they return a verdict of guilty, Pierre Harris could spend the rest of his life in prison.

(SHARI MACIAS/VO)

WELL, MIKE, HOW IS THE PROSECUTION HANDLING THIS TURN OF EVENTS?

Mike Ceide VO/Video
(graphic)

Well, Shari, the prosecution isn't talking right now, but in my conversation with defense attorney Robert Rush, who represented the acquitted Carl Harris, he says he feels confident Pierre will follow the lead his brother set and be released in the next few days. And that's about all the details I have right now on the Harris murder trial.

THANKS MIKE. THAT WAS MIKE CEIDE REPORTING LIVE FROM THE ALACHUA COUNTY COURTHOUSE.

WUFT-TV
Slug: HARRIS TRIAL
Date: 10/2

GRAHAM

THE HARRIS BROTHERS HAVE A LOAD OFF THEIR MINDS THIS EVENING.

BOTH CARLTON AND PIERRE HARRIS WERE ON TRIAL TOGETHER LAST WEEK FOR FIRST DEGREE MURDER.

THEY WERE CHARGED WITH MURDER IN CONNECTION WITH THE 1988 STABBING OF IRVING EUGENE LAWRENCE.

BUT BOTH ARE NOW FREE . . . THE JUDGE DISMISSED CHARGES AGAINST CARLTON BECAUSE OF A LACK OF EVIDENCE.

AND ON SATURDAY . . . THE JURY FOUND PIERRE INNOCENT OF MURDER.

THE PROSECUTION ARGUED THAT THE HARRIS BROTHERS MURDERED LAWRENCE WITH CRIMINAL INTENT . . . THE HARRIS' ATTORNEYS ARGUED THE HARRISES KILLED LAWRENCE IN SELF DEFENSE.

WRUF-AM
9/29/89
7:06

A MAN ON TRIAL FOR MURDER SAYS IT WAS SELF-DEFENSE. PIERRE HARRIS IS ACCUSED OF STABBING 21-YEAR-OLD IRVING LAWRENCE TO DEATH LAST OCTOBER. THE JURY LOOKED ON TODAY AS THE DEFENDANT AND HIS BROTHER RE-ENACTED LAST YEAR'S EVENTS. THE JURY IS NOW DELIBERATING. DEFENSE ATTORNEY CRAIG DE THOMASIS SAYS HE'S GLAD THE JURY IS TAKING ITS TIME IN REACHING A VERDICT:

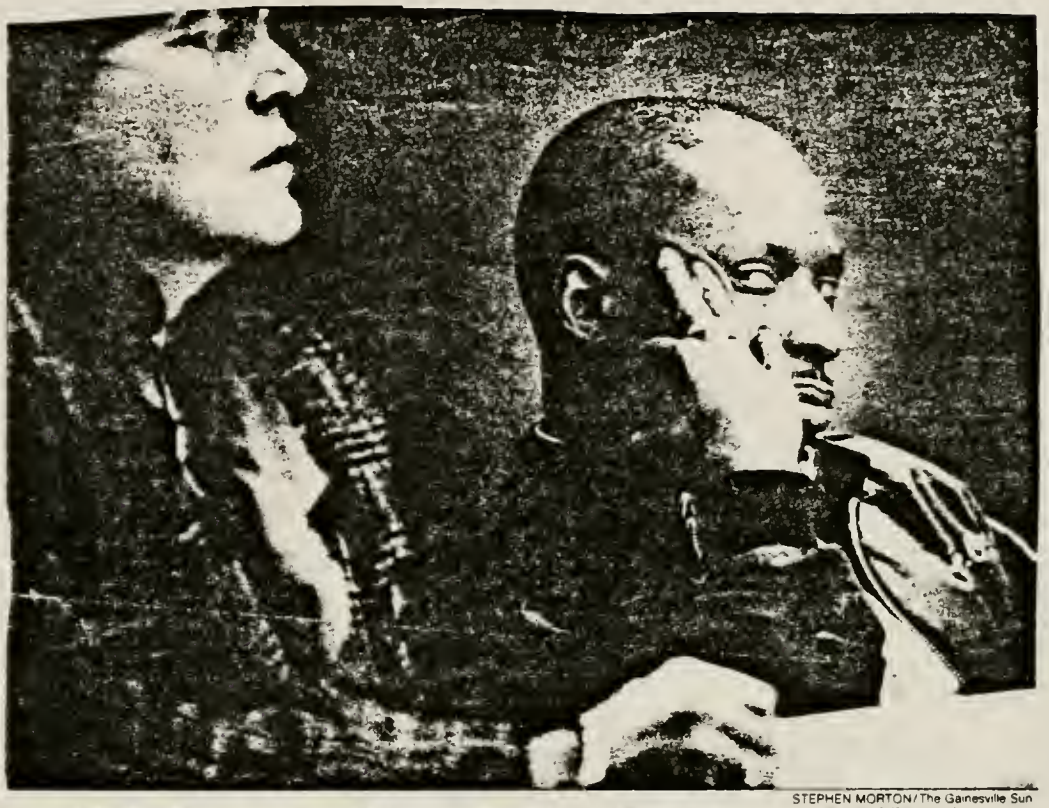
(FRI 30 :15 DE THOMASIS ". . . A VERDICT.")

THE TRIAL RECONVENES TOMORROW MORNING WHEN THE JURY IS EXPECTED TO HAND DOWN A VERDICT. IF CONVICTED, HARRIS COULD SPEND THE REST OF HIS LIFE IN PRISON.

WRUF-AM
9/29/89
8:20

A MAN ON TRIAL FOR MURDER IN GAINESVILLE SAYS HE DID IT IN SELF-DEFENSE. PIERRE HARRIS IS ACCUSED OF STABBING 21-YEAR-OLD IRVING LAWRENCE TO DEATH LAST OCTOBER WHILE HIS BROTHER HELD THE VICTIM IN A HEADLOCK. THE JURY IS EXPECTED TO HAND DOWN A VERDICT MONDAY MORNING.

The Gainesville Sun
Thursday, October 5, 1989 **



STEPHEN MORTON/The Gainesville Sun

Frank Lee Spikes listens to testimony next to his attorney, Assistant Public Defender Susan Wehlburg, during the first day of his murder trial Wednesday in circuit court.

Trial delayed in burning death

By MITCH STACY
Sun staff writer

Frank Lee "Pee Wee" Spikes will have to wait until at least next Wednesday to find out if an Alachua County circuit court jury will find him responsible for the death of his 77-year-old grandfather from burns suffered in a February apartment fire.

Circuit Judge Elzie S. Sanders Wednesday granted a motion by Spikes' attorney, Assistant Public Defender Susan Wehlburg, to postpone the remainder of the trial until then. A witness she plans to call to testify — a fire investigations expert from the state fire college in Ocala — is out of state until next week.

Wehlburg refused to comment further on the motion. But Assistant State Attorney Harris B. Tobin said the defense attorney failed to subpoena the investigations expert after the trial was postponed last month because Wehlburg had to tend to a family emergency.

Tobin, who finished with his witnesses Wednesday afternoon, is trying to show that Spikes, 37, poured kerosene around his grandfather's apartment in a fit of rage and ignited it with lit pieces of newspaper Feb. 4. The fire severely burned his grandfather, also named Frank Lee Spikes, on the face, head, chest and arms. He died 17 days later at Shands Hospital.

The younger Spikes is charged with first-degree murder and first-degree arson of a dwelling. If found guilty, he could be sentenced to life in prison.

Artanzie Humphrey, who is the defendant's aunt, testified that the younger Spikes came over to the NE Waldo Road apartment where she lived with the grandfather, who was her father. The younger Spikes was upset because he thought his ex-wife was there in a bedroom having sex with his grandfather, Humphrey said.

The grandfather allowed Spikes to go to the back bedroom to see that his ex-wife wasn't there, Humphrey said, but apparently that wasn't good enough.

"He got the kerosene (can) from under the table, poured it on the (bedroom) door, on the table, on the TV and on another couch in the hall," said a tearful Humphrey. He then turned over a kerosene heater, apparently trying to pour more fuel on the floor, she said. While doing so, she said, Spikes exclaimed that he was going to kill his grandfather.

Spikes then lit a newspaper and ignited his grandfather's bedroom door and other parts of the apartment, she said. Humphrey said she yelled for her father to get out, but he refused, calling back that, "Pee Wee ain't going to do nothing."

Before testimony began, Wehlburg waived her right to make an opening statement until after Tobin presented his case. She has given no clear indication of what kind of a defense she will

See TRIAL on page 5B

TRIAL

Continued from page 1B
present for Spikes.

However, Joseph Mayo, the Gainesville police officer who arrested Spikes at another residence a few hours after the fire, said Spikes told officers that he was burning paper in the kerosene heater when it tipped over accidentally and caught his grandfather's bedroom door on fire.

But a former city fire investigator who was assigned to the scene said the burnt areas on the door are consistent with Humphrey's contention that Spikes deliberately spread the kerosene along the top of the door.

The trial will continue with Wehlburg calling her witnesses at 9 a.m. Wednesday.

The Gainesville Sun
Thursday, October 12, 1989

SPENCER WEINER

Frank Lee "Pee Wee" Spikes appears in court Wednesday. Spikes was sentenced to life in prison for setting the fire that resulted in the death of his grandfather.

Man sentenced to life in prison

By ANA ACLE
Sun staff writer

Frank Lee "Pee Wee" Spikes was sentenced to life in prison Wednesday for setting the February apartment fire that resulted in the death of his 77-year-old grandfather.

An Alachua County circuit court jury deliberated nearly two hours, and at one point requested that the testimony of one witness be read back by the court reporter, before finding Spikes, 37, guilty of first-degree murder and arson.

Spikes showed no emotion when Circuit Judge Elzie S. Sanders sentenced him to life imprisonment, with a minimum mandatory sentence of 25 years, for the murder of his grandfather, also named Frank Spikes. Sanders also sentenced Spikes to 30 years for first-degree arson. This sentence will run at the same time as the murder sentence.

Grandson guilty of murder, arson

Spikes previously had been convicted of three felonies — possession of cocaine, carrying a concealed weapon and aggravated battery, according to Assistant State Attorney Harris A. Tobin.

"I am obviously happy with the verdict," Tobin said. "It was our position that it was first-degree murder, and that he killed his grandfather."

The four-woman, two-man jury decided that Spikes poured kerosene and set fire to the Waldo Road apartment where his grandfather lived on Feb. 4. His grandfather suffered burns to the face, neck, shoulders, chest and legs.

Jurors asked for a re-reading of the testimony of witness Russell Cobb. Cobb, who was among the first on the scene when the grandfather was pulled out of the apartment, stated in the first day of the trial last week that the elder Spikes told him, "My own grandson, Pee Wee, did it."

Spikes, who appeared bored throughout much of the trial, smiled broadly while Cobb's testimony was read.

In his testimony, Spikes said he didn't start the fire that killed his grandfather and implied that Artanzie Humphrey, his aunt who also lived at the apartment, may have started it.

Spikes said that he and his aunt had been drinking and smoking crack cocaine the night the fire started. Once they had "run out of rocks," Humphrey wanted to get more but they didn't have any money. He said Humphrey wanted to burn the house down

See GUILTY on page 3B

GUILTY

Continued from page 1B

to get money from the insurance "like last time." Spikes said there was a rumor circulating that Humphrey had planned a fire for that reason on another occasion.

But last week Humphrey testified otherwise. She said Spikes started the apartment fire because he thought his grandfather was there having sex with the younger Spikes' ex-wife. She said he lit his grandfather's door, table, television and a couch on fire.

Spikes' attorney, Assistant Public Defender Susan Wehlburg, said she will appeal the conviction.

"We felt there was not sufficient evidence to convict beyond a reasonable doubt, and I'm disappointed that the jury did not agree with us," Wehlburg said.

The trial had been postponed a week because the defense's witness, a chemist from Ocala who investigated the evidence, was out of state until Wednesday.

THURSDAY, OCTOBER 5, 1989

THE FLORIDA TIMES-UNION

SECTION B

BUSINESS PAGE B-6

Call Box 2
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FLORIDA

Man's lost love cited in grandfather's death

By Larry Schnell
Staff writer

GAINESVILLE — A dispute between a man and his grandfather that led to a fatal fire in February was prompted by the young man's suspicion that his ex-wife was in bed with the elder man, the dead man's daughter told a jury yesterday.

The testimony came from Artanzie Humphrey as trial began of her nephew, Frank Lee Spikes Jr., on a first-degree murder charge in the death by fire of Frank Spikes.

The elder Spikes, 77, of 621 N.E. Waldo Road, died of burns several weeks after being pulled from their flaming home Feb. 4.

The younger Spikes, 38, who is 5 feet tall and nicknamed "Pee Wee," also is charged with arson.

Ms. Humphrey testified that she, her father and her nephew shared the small apartment where the incident occurred.

She said her nephew was creating a disturbance in her father's living room because he thought his former wife was in bed with his grandfather.

Even after the grandfather opened the door and showed that he was alone in his bedroom, Spikes continued his commotion, Ms. Humphrey said. The conflict continued, despite the grandfather's call for quiet so he could get some sleep, she said.

Finally, while she was washing her hair, Spikes took a can of kerosene used for heating the apartment and threw some on the bedroom door, the television and along the hall, she said. He tried to drain more kerosene from a small heater before setting the apartment on fire, Ms. Humphrey said.

She said she tried to warn her father before the fire started, but he said from his closed room that Spikes wasn't going to do any harm. When Spikes lighted the kerosene with a flaming paper, she ran to a convenience store and called the police.

Spikes' defense was postponed until next Wednesday at the request of Spikes' defense attorney, after prosecutors declined to call an expected expert witness.

Assistant Public Defender Susan Wehlburg delayed her opening statement until she begins her defense.

(See MAN, Page B-5)

Man thought grandfather with ex-wife, woman says

(From Page B-1)

Wednesday. But during cross-examination, she repeatedly asked if Ms. Humphrey had taken any drugs the night her father was killed and if she was on drugs or alcohol during her testimony yesterday.

Ms. Humphrey sometimes cried, closed her eyes or rested her head on her hands during her testimony. She denied using drugs or alcohol before the fire or before the trial. But, she said, the younger Spikes was smoking crack before the fire.

When pressed about details of the night her father was burned, she said to Ms. Wehlburg, "What were you doing when your father died?"

It was not clear whether Ms. Humphrey knew that Ms. Wehlburg's father died last month, forcing a postponement of the trial. After a brief pause, cross-examination continued

★★ The Florida Times-Union, Jacksonville, Thursday, October 12, 1989

Jury convicts man of setting fatal fire

By Larry Schnell
Staff writer

GAINESVILLE — A Gainesville man was found guilty yesterday of first-degree murder and arson for burning his grandfather to death during a rage of jealousy.

Frank Lee Spikes Jr., 621 N.E. Waldo Road, was convicted of setting a fire in the apartment where he lived with his grandfather, Frank Spikes, 77, and his aunt, Artanzie Humphrey , 38.

A witness testified that the younger Spikes, 38, was angry because he believed his ex-wife was in bed with his grandfather, so he doused the apartment with kerosene and set it on fire.

Judge Elzie Sanders sentenced Spikes to life in prison with minimum 25 years for the murder conviction and 30 years for the arson conviction.

Spikes' attorney, Assistant Public Defender Susan Wehlburg, complained that numerous and repetitious photographs of the autopsy of the grandfather were unfairly presented to the jury. She said she will appeal for a new trial.

Expert witnesses called by Assistant State Attorney Harris Tobin supported Ms. Humphrey's testimony that kerosene was not spilled but thrown onto the floor and elsewhere in the apartment.

Ms. Humphrey said Spikes was angry because he believed his ex-wife was having sex with his grandfather, and even after the elder Spikes opened his door to show he was alone, the grandson was not appeased.

While smoking crack cocaine in the living room, he made a commotion until his grandfather called out to stop the noise, she testified.

While Ms. Humphrey was washing her hair, she saw Spikes take the two-gallon can of kerosene and begin dousing the door, the hall and furniture, she said. Then he tried to drain more kerosene from a heater, she said.

She testified that she warned her grandfather, but he called back from his room that Spikes wouldn't do anything harmful. The elder Spikes was rescued from the burning apartment but was badly burned. He died several weeks later.

Slug: SPIKES MURDER
TRIAL
Anchor: SHARI
Date: 10/4

SHARI

A SEVEN-MEMBER JURY LISTENS TO OPENING ARGUMENTS AND TESTIMONY THIS AFTERNOON IN THE CASE OF A GAINESVILLE MAN ACCUSED OF MURDERING HIS GRANDFATHER AND BURNING DOWN HIS HOME.

BUT AS NEWS FIVE'S AMY MADER TELLS YOU . . . THE CASE IS NOT CLEAR CUT . . . AND MANY QUESTIONS REMAIN.

PKG SOC 1:10

10/4

(PKG SOC 1:10)

FRANKIE LEE SPIKES PLEADED INNOCENT TO CHARGES HE MURDERED HIS GRANDFATHER AND SET FIRE TO HIS GRANDFATHER'S HOUSE. BUT STATE ATTORNEYS AREN'T BUYING SPIKES' PLEA. AND THEY FEEL OPTIMISTIC THE TRIAL WILL END IN A CONVICTION

On Tobin C: Harris Tobin State Attorney	I can tell you that we have had an expert testify that in her opinion this was an intentionally-set fire. Uh . . . I have had a witness testify that she saw the defendant intentionally set it. So I have both eyewitness testimony and expert testimony that backs up that eyewitness testimony.

SPIKES SAYS HE ACCIDENTALLY KNOCKED OVER A KEROSENE HEATER WHICH STARTED THE FIRE. NEIGHBORS SAY THEY'RE NOT SURE WHAT HAPPENED. AND THEY AREN'T READY TO SAY SPIKES IS GUILTY.

On O'Neal C: Robert O'Neal Neighbor	Ahh . . . I wouldn't say . . . I couldn't say that. Because, you know, I don't know what was happening. I was in the bed when the fire went off, so I couldn't exactly say whether yes or no.

On Mader
(On location
at apt)
C. Amy Nader

THE STATE ARGUES THAT FRANKIE LEE AND HIS GRANDFATHER DIDN'T GET ALONG. YET O'NEAL SAYS FRANKIE LEE AND HIS GRANDFATHER WERE LIVING WITH EACH OTHER HERE IN THIS APARTMENT FIVE TO SIX MONTHS BEFORE THE INCIDENT OCCURRED. AND NEIGHBORS SAY THAT NO MATTER WHO IS RESPONSIBLE, THE PERSON WHO DID SET THE HOUSE ON FIRE SHOULD BE PUNISHED. AMY MADER, NEWS 5.

Slug: SPIKES MURDER
Anchor: SHARI
Date: 10/11

SHARI

THE TRIAL IS OVER FOR A GAINESVILLE MAN ACCUSED OF KILLING HIS GRANDFATHER AND BURNING HIS HOUSE.

A JURY HANDED DOWN A CONVICTION THIS AFTERNOON . . . AND NEWS FIVE'S AMY MADER JOINS US LIVE FROM THE ALACHUA COUNTY COURTHOUSE WITH A REPORT.

AMY . . . THIS TRIAL CERTAINLY HAD ITS SNAGS . . . CAN YOU TELL US MORE ABOUT FRANKIE LEE SPIKES' CONVICTION?

Mader VO/graphic
(Spikes guilty)
C: Amy Mader
LIVE
Alachua Co.
Courthouse
Gainesville

VO/video
(courtroom scenes)
(back & forth
reaction shots
on talent)

Yes, Shari, I can. After an hour and a half of deliberation, a seven-member jury has found Frankie Lee Spikes guilty of first-degree arson. Earlier, the deliberation hit a snag when last week's court reporter had to come back to re-read testimony from Russell Cobb, the victim's neighbor. Cobb apparently spoke with Frankie Lee's grandfather, after he was pulled out of the burning home. According to testimony, the victim told Cobb Frankie Lee was the one who set the home on fire. State Attorneys are, of course, pleased with the jury's decision. Meanwhile, the defense attorney says she'll appeal the verdict. Shari?

***AMY . . . WE HAVE WORD THAT THE JUDGE HAS ALREADY HANDED DOWN A SENTENCE FOR SPIKES . . . WHAT IS THE SENTENCE?

Mader VO graphic (photo Mader) C: Amy Mader LIVE Alachua Co. Courthouse Gainesville	Yes indeed, Shari. The judge has handed down the sentence. Spikes has received a life in prison term for the first-degree murder charge, with a minimum of 25 years. That means he must serve at least 25 years in prison for that sentence. He also received 50 years for the arson charge. And, Shari, that about wraps up the trial for Frankie Lee Spikes.
On talent on set	ALL RIGHT, AMY. THANK YOU VERY MUCH. THAT WAS AMY MADER REPORTING LIVE FROM THE ALACHUA COUNTY COURTHOUSE HERE IN GAINESVILLE.

CLAIMS SELF-DEFENSE

Mechanic's murder trial begins

12/7/88

By MITCH STACY
and TOM LYONS
Sun staff writers

Charlie Stanley shot and killed a co-worker and then calmly went out to dinner that evening with his ex-wife and stepdaughter, a prosecutor in Stanley's first-degree murder trial told jurors Wednesday.

Chief Assistant State Attorney John Carlin is trying to show that the 50-year-old Hawthorne truck mechanic had planned to kill Alex Pete Pippins, a 57-year-old co-worker who had been trying to collect a $300 debt from him.

Carlin must prove premeditation to get a conviction of first-degree murder.

Pippins' decomposing body was found in his pickup truck on Sept. 14, 1988, in a wooded area near Earleton, off County Road 32A. The shooting took place nine days earlier.

Gregory McMahon, one of Stanley's two court-appointed defense lawyers, contends that Stanley shot and killed Pippins in self-defense after Pippins threatened him with a sawed-off shotgun. In his opening statement, McMahon reminded the jury that Stanley is the only one alive who knows what really happened that day.

"What you won't hear (from witnesses) is testimony about what happened at the scene," McMahon said.

Gregory Randall, who worked with Stanley and Pippins at Circle C Trucking in Putnam County, said Stanley had talked about not paying the debt and had mentioned once that he would rather kill Pippins than pay him.

On the day of the killing, Randall said, Stanley called and asked that he meet him in Orange Heights. When Randall arrived, he saw Stan-

See TRIAL on page 5B

SPENCER WEINER

Charlie Stanley, right, listens to testimony in his first-degree murder trial Wednesday. At left is attorney William Cervone, one of his court-appointed defense attorneys.

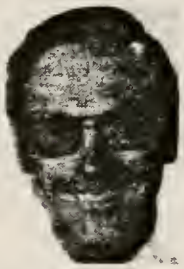
TRIAL

Continued from page 1B

ley driving Pippins' truck and followed him to the wooded area, where Stanley parked.

On the ride back to Stanley's mobile home, Stanley admitted killing Pippins, Randall testified. When asked how many times he shot Pippins, Stanley held up three fingers.

That afternoon, Stanley went to see his stepdaughter and ex-wife, Joanne Drake, at their mobile home, where he fixed his stepdaughter's car. Drake testified Wednesday she didn't notice anything unusual about Stanley during the visit, which included dinner at a restaurant.



Carlin

She said she "pitched a fit" to get him to go to Pennsylvania to retrieve a travel trailer she had been awarded in their divorce settlement. Stanley was reluctant to take the trip, in part because of a serious heart condition that had already forced him to retire from his former job as a long-distance trucker.

His ex-wife described him as soft-spoken, even-tempered and not at all prone to violence.

Stanley was arrested two days after the shooting at a Ridgeland, S.C., hospital. He had suffered a heart attack while hauling the trailer from Pennsylvania, according to testimony.

Part of Wednesday's testimony focused on the sawed-off shotgun, which was found under the seat of Pippins' pickup truck. Alachua County Sheriff's Investigator Dick Scully testifled that the weapon was rusted and covered with dust and dirt when he retrieved it from truck, but said he did not conduct tests to see if the weapon would fire.

The trial will continue this morning before Circuit Judge Elzie S. Sanders.

12/9/89

Worker gets 15 years in killing

By MITCH STACY
Sun staff writer

Hawthorne truck mechanic Charlie Stanley was sentenced to 15 years in prison Friday for the 1988 Labor Day murder of a former co-worker.

The circuit court jury deliberated about 2½ hours before finding Stanley, 50, guilty of second-degree murder. Prosecutors were trying to get a conviction of first-degree murder but were unsuccessful in proving that Stanley had planned the killing.

Stanley claimed that Alex Pete Pippins had grabbed a sawed-off shotgun from the seat of a pickup truck just before Stanley shot him twice with a .32-caliber handgun. Pippins came to Stanley's Hawthorne mobile home on the morning of Sept. 5, 1988, to try to collect $300 Stanley owed him, according to testimony during the four-day trial.

Despite pleas for leniency from defense attorneys and family members, Judge Elzie S. Sanders followed the 15-year recommendation of Chief Assistant State Attorney John Carlin in sentencing Stanley. State sentencing guidelines called for between seven and 22 years in prison.

Defense attorneys Gregory McMahon and William Cervone asked that Sanders take into account Stanley's age and "perilous health" due to a heart condition. Cervone told the judge that Stanley, who has no prior criminal record, may not even live

See VERDICT on page 3B

VERDICT

Continued from page 1B

through the mandatory three years he must spend in prison for using a firearm in the crime.

"I can't fault the judge, because the judge does what he has to do in his own mind," said McMahon. "We would have liked to have seen something better to his (Stanley's) end."

Stanley, his ex-wife, Joanne Drake, and other family members who stood with him wept as they listened to defense attorneys and then asked Sanders for leniency.

"He's a very good man, very gentle, just like I told you in my testimony," said Drake as she stood with an arm around her ex-husband.

In response to the pleas, Carlin said, "Mr. Stanley's state of health is a lot better than Mr. Pippins'."

The prosecutor had called the killing "cold and calculated."

"I think the jury deliberated fairly and thoroughly, and I think the verdict they reached was fair," he said, calling the prison sentence "just."

Carlin said he wasn't surprised the jury did not find that Stanley planned the murder, despite testimony from witnesses who said he had talked about killing Pippins. Proving premeditation is difficult, Carlin said, especially when there are no eyewitnesses to the killing.

After the shooting, Stanley loaded Pippins' body in the pickup truck, drove it to a remote area near Earleton and parked it among the trees, according to testimony. He told only a co-worker about the shooting. Sheriff's deputies discovered the truck and the body nine days later.

Stanley was arrested after being released from a Ridgeland, S.C., hospital, where he was taken when he suffered a heart attack while hauling a travel-trailer back to Florida from Pennsylvania. He left on the trip the day after the shooting at the urging of his ex-wife, who had been awarded the trailer in their divorce settlement, according to her testimony.

McMahon said Stanley had refused to accept a plea agreement that would have seen him plead no contest to second-degree murder and end up with a 12-year prison sentence. Stanley said he wanted the case to go to jury because he could not justify putting himself in jail for a crime he felt he did commit, said McMahon.

Correction

The last sentence of a story in Saturday's Sun about a murder trial verdict should have read: "(Defendant Charlie) Stanley said he wanted the case to go to jury because he could not justify putting himself in jail for a crime he felt he did not commit, said (defense attorney Gregory) McMahon." The second "not" was inadvertently left out of Saturday's story.

Slug: STANLEY MURDER
TRIAL
Anchor: SHA/JQ
Date: 12/05

SHARI

A MURDER TRIAL ALMOST UNDERWAY IN AN ALACHUA COUNTY COURTROOM.

JQ

EFFORTS TO DELAY HEARINGS. . . . THE FIRST DEGREE MURDER TRIAL OF A HAWTHORNE MECHANIC IS SET TO BEGIN TOMORROW.

CHARLIE STANLEY IS ACCUSED OF THE SHOOTING DEATH OF ALEX PETE PIPPINS ON SEPTEMBER FIFTH . . . 1988.

TWO WEEKS LATER . . . POLICE FOUND PIPPINS' DECOMPOSING BODY IN HIS PICK UP TRUCK IN A WOODED AREA NEAR EARLTON

(John Carlin)
John Carlin
Prosecutor

(Pippin) and Mr. Stanley were employees at Circle C Trucking from Hawthorne. They were co-workers. It's the State's belief that Mr. Pippin had lent Mr. Stanley some money and Mr. Stanley was not paying the money back and that led to some friction between the two and that friction ultimately escalated to the killing of Mr. Pippin.

(Quattlebaum)
vo/video
(courtroom)

BUT STANLEY CLAIMS HE FIRED IN SELF-DEFENSE, ONLY WHEN PIPPIN THREATENED TO KILL HIM IF HE DIDN'T REPAY THE MONEY. DEFENSE ATTORNEY GREGORY MCMAHON SAYS STANLEY DOESN'T HAVE A CRIMINAL HISTORY:

(Gregory McMahon)
Gregory McMahon
Defense Attorney

He's a long-term, long-haul truck driver that had had two heart attacks, so he was reduced to being a mechanic, and he's worked for the Crosby's before at Circle C

Trucking, and as a result of that he was a mechanic. He has no criminal history whatsoever, and this was the first time that he's been in jail.

BUT MCMAHON SAYS PIPPIN DID HAVE A RECORD WHICH INCLUDED FOUR D-U-I CONVICTIONS.

OPENING ARGUMENTS IN THE TRIAL SHOULD BEGIN TOMORROW MORNING.

WUFT-TV
Slug: STANLEY MURDER
TRIAL
Anchor: PAT/SHARI
Date: 12/6

PAT

GOOD EVENING. JURORS IN THE FIRST DEGREE MURDER TRIAL OF 40-YEAR-OLD CHARLIE STANLEY WILL HEAR A TAPE WHICH ALLEGEDLY CONTAINS A MURDER CONFESSION.

SHARI

ALACHUA COUNTY JUDGE ELZIE SANDERS SENT JURORS HOME FOR THE DAY . . . AND THEN RULED THAT THEY WILL HEAR THE TAPE.

DEFENSE ATTORNEYS SAY JURORS SHOULD NOT HEAR IT . . . BUT PROSECUTORS SAY IT CONTAINS CRUCIAL EVIDENCE TO PROVE STANLEY MURDERED HIS CO-WORKER ALEX PETE PIPPINS.

POLICE FOUND PIPPIN'S DECOMPOSED BODY IN A PICKUP TRUCK NEAR ORANGE HEIGHTS LAST SEPTEMBER.

ONE WITNESS FOR THE PROSECUTION TESTIFIED HE WORKED WITH BOTH MEN AT CIRCLE C TRUCKING . . . AND THAT STANLEY TOLD HIM HE HAD KILLED PIPPIN.

OTHER WITNESSES SAID STANLEY WAS A CALM SOFT-SPOKEN MAN WITH NO VIOLENT TENDENCIES.

WUFT-TV
Slug: STANLEY MURDER
TRIAL
Anchor: SUSAN
Date: 12/07

SUSAN

A TAPE PROSECUTORS SAY CONTAINS A MURDER CONFESSION PLAYS IN THE TRIAL OF A HAWTHORNE MAN.

TRUCK MECHANIC CHARLES STANLEY FACES ONE COUNT OF FIRST DEGREE MURDER FOR HIS ALLEGED ROLE IN THE DEATH OF CO-WORKER ALEX PIPPINS.

PROSECUTORS ARE CHALLENGING THE TESTIMONY OF ANOTHER CO-WORKER--RAY FULLER--WHOSE TESTIMONY MAY HELP STANLEY.

(John Carlin)
(John Carlin
Chief Asst
State Atty

Mr. Fuller had made a statement which the State thought was important to bring before the jury. When he took the stand, he waffled on that statement, and we had requested that he be declared an adverse witness.

(Greg McMahon)
Greg McMahon
Defense Attorney

The State's arguing circumstantial evidence and then there's an evidentiary rule on that. So they don't have any eyewitnesses, we don't have any eyewitnesses. It would work both ways, obviously. We would think an eyewitness would support our case. They obviously think contrary.

AFTER FULLER'S TESTIMONY, JURORS GATHERED AROUND A TAPE RECORDER TO LISTEN TO THE TAPE THE PROSECUTION PRESENTED AS EVIDENCE.

THE DEFENSE SHOULD PRESENT ITS SIDE OF THE CASE TOMORROW.

WUFT-TV
Slug: STANLEY MURDER
TRIAL
Anchor: SUSAN/SHARI
Date: 12/8

SUSAN

A HAWTHORNE TRUCK MECHANIC WILL SPEND UP TO FIFTEEN YEARS IN PRISON FOR THE MURDER OF A CO-WORKER.

SHARI

A JURY THIS AFTERNOON FOUND CHARLES STANLEY GUILTY OF SECOND DEGREE MURDER.

STANLEY'S CONVICTED OF KILLING CO-WORKER ALEX PIPPIN.

STANLEY'S LAWYERS ARGUED HE SHOT PIPPIN IN SELF-DEFENSE AS THE TWO ARGUED OVER A DEBT.

STANLEY WAS CHARGED WITH FIRST DEGREE MURDER BUT THE JURY RETURNED A CONVICTION ON SECOND DEGREE MURDER INSTEAD.

STANLEY'S LAWYERS ARGUED FOR A LIGHT SENTENCE BECAUSE OF THE NATURE OF THE CRIME. . . BECAUSE STANLEY IS A FIRST-TIME OFFENDER AND BECAUSE HE HAS A HEART CONDITION.

BUT JUDGE ELZIE SANDERS AGREED WITH PROSECUTORS' RECOMMENDATION AND SENTENCED STANLEY FIFTEEN YEARS IN PRISON.

APPENDIX E
JUROR EXIT POLL

If you care to, please take a few minutes to answer the following questions regarding press coverage of the trial for which you just served on the jury. The information will be used in a study on the subject of cameras in courtrooms. All responses are anonymous. Use the back of the page if necessary. If you have any questions, you may contact the researcher (392-2273). Please mail your answers to:

Sherry Alexander, College of Journalism
Weimer Hall, University of Florida
Gainesville, 32611

1. How do you feel about the Florida law which permits newspaper photographers and radio and TV reporters, provided they follow certain guidelines, to bring their equipment into the courtroom?

A. I think it's a bad idea and interferes with the judicial process.
B. I think there are some advantages to allowing it but some drawbacks too.
C. I think it's a good idea and helps the public understand the judicial system better.

Comments:

2. During the trial with which you were involved: How aware were you of the presence of reporters and their equipment?

A. I hardly noticed the reporters or their equipment.
B. I knew the reporters and the equipment were there, and sometimes I was a little distracted by their presence.
C. I was very aware of the presence of reporters and their equipment, and I wish they hadn't been in the courtroom.

Comments:

3. Regarding the trial with which you were involved: After the trial,

a. Did you read the newspaper coverage? Yes/No
b. Did you hear about radio or TV coverage? Yes/No

If the answer to either a. or b. is "Yes," how accurate do you think the coverage was? (If the answer to both is "No," skip this question.)

A. The coverage was poor: I noticed some serious differences between what was reported and what really happened in court.
B. The coverage was fair: I noticed only minor inaccuracies.
C. The coverage was good: I did not notice any inaccuracies.

Comments:

Male/Female _____ Age_____ Occupation_____
How many times have you served on juries before this? _____
How often do you read the newspaper? _____ Which one? _____
How often do you listen to radio news? ___ Which station? ___
How often do you watch TV news? _____ Which network news? (ABC, CBS, NBC, etc.) _____ Which local station news? (TV 5, TV 20, etc.) _____

Thank You!

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